

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, January 15, 2015

SUBJECT	DESCRIPTION	PRESENTER
Introductions	Page, Committee Secretary	Senator Siddoway
Rule Assignment	Distribution of Rules	Senator Johnson
Presentation	Idaho Board of Tax Appeals	Steven Wallace

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, January 15, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators Vick, Guthrie, and Burgoyne

ABSENT/ EXCUSED: Senators McKenzie, Rice, Bayer, and Werk

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m. He noted that other committee meetings prevented the excused Senators from attending.

SECRETARY AND PAGE INTRODUCTION: **Chairman Siddoway** introduced the Committee secretary, Mandy McLennan, and read her biography. He then invited the Committee page, Haley Fronk, to the podium and asked her to tell the Committee about herself.

PASSED THE GAVEL: Chairman Siddoway passed the gavel to Vice Chairman Johnson

RULES REVIEW ASSIGNMENTS: **Vice Chairman Johnson** went over the 2015 rules assignments.

PASSED THE GAVEL: **Vice Chairman Johnson** returned the gavel to **Chairman Siddoway**.

PRESENTATION: **Chairman Siddoway** introduced Steven Wallace, Director of the Idaho Board of Tax Appeals (Board).

Mr. Wallace introduced himself along with David Kinghorn, Chairman of the Board. He also introduced the other members of the Board that were unable to attend.

Mr. Wallace explained that the Board is an independent tax tribunal of three citizen Board members. The Board was statutorily created and hears tax appeals at an appellate level. The Board hears contested cases in accordance with Idaho's Administrative Procedures Act, thereby ensuring due process safeguards. He continued to explain that in its public service the Board strives to provide taxpayers a fair and convenient avenue to question and challenge tax assessments. In this service they are fully independent of the State Tax Commission (Commission) and Idaho's 44 counties. They are involved in the day to day business of administering Idaho's tax laws. The Board handles no money and operates solely to resolve disputed tax matters.

Mr. Wallace spoke on the backgrounds of the Board members and how this creates a balanced board. Each member has a different background. There are no strong duplicates such as two attorneys, or two assessors, or three new members. The members also have a good geographical dispersion. A balanced Board helps ensure that cases are fully considered.

By law, members of the Board must have "knowledge of and expertise in taxation". By legislative design the Board is intended to be a specialized tax tribunal. This works well in trying routine tax cases as well as the large or complex cases.

Mr. Wallace stated that including his position, the Board is supported by five full time staff. All the staff works from the Board's Boise office which is located off Americana Boulevard near the Boise River. Most of the staff positions focus heavily on assisting the Board with hearings and deciding hundreds of appeals annually. The Board members and staff hearing officers receive judicial training in-house and through outside organizations like the National Judicial College in Reno, Nevada.

Mr. Wallace reported that the best balance between the staff and the Board members is about a 50/50 split. The members sit for about 50 percent of the hearings, and staff hearing officers sit for the other 50 percent. Both the traveling hearing officers and all the Board members are well-seasoned and able to go anywhere and hear any type of case. This allows them to regularly assign fresh judges.

Mr. Wallace proceeded to outline what the Board's jurisdiction processes are by first explaining the subject matter jurisdiction. The Board's present jurisdiction takes in locally assessed property assessments (80-90 percent of total appeals), income tax, sales and use tax, and circuit breaker benefits. The Board does not presently have jurisdiction to hear appeals of centrally assessed property like a utility or transportation property, nor does the Board hear tax disputes on corporate income taxes or sales and use tax where the amount exceeds \$25,000.

Next, **Mr. Wallace** addressed hearings. He cited that in about 80 percent of the time a single Board representative participates at the hearing stage. In other instances there may be two or three representatives from the Board. Regardless of who presides at the hearing, the hearing officer's recommended decision must gain the signatures of at least two Board members to become a final decision.

A typical hearing lasts from one to two hours and is held at a county courthouse. The Board almost always travels to a location near the taxpayer for the hearing. There might be a total of three to six people participating. This is what most tax appeals need for the parties to tell their story and present their evidence. A larger hearing can be very trial like and take all day or multiple days, with attorneys on both sides and expert witnesses of a national caliber. A small case might involve a couple hundred dollars; while a larger case might involve tens of thousands of dollars.

Mr. Wallace reported that the Board's current flexibility has helped them handle a wide case load over the years. In years where the appeal numbers are high they might take on extra resources to match the workload, seeking a supplemental budget appropriation. In lower volume years, such as the last couple years, they have been able to revert extra personnel funds back to the General Fund.

Mr. Wallace commented on the Board's judicial function and its place within Idaho's tax appeal system. He referred the Committee to the first page of the handout material where there is a flow chart titled Idaho Appeals System. He said this summary illustrates the appeal steps for a local ad valorem assessment, which is the most common appeal type. The steps and processes, though not the same, are nonetheless comparable for an appeal of a Commission decision. Before a locally assessed property taxpayer can appeal to the Board, they must first bring their dispute before the County Board of Equalization (BOE). This is the first official step in the appeal process. The BOE process ends up resolving about 90-95 percent of the initial protests. The BOE is a relatively informal proceeding with some significant time constraints. After receiving a notice of decision from the BOE, an appeal may be brought either to the Board, or to the district court, within 30 days. Over 99 percent of taxpayers elect to bring their appeal to the Board. Following

the issuance of a decision by the Board, an appeal may be brought to the district court within 28 days. It is estimated less than 2 percent of Board decisions are further appealed to the district court. It often takes a district court one to two years to process a tax appeal. In contrast, the Board is able to complete appeals within approximately six months.

Mr. Wallace explained that appeals and decisions are filed in two manners. An appeal of a BOE decision to the Board must be filed locally with the County Clerk/Auditor within 30 days. They have a one-page appeal form that is popular with appellants, or the appeal may be filed in the legal pleading style. Together with other materials, the Auditor transmits the appeal to the Board within 30 days. An appeal from a decision of the Tax Commission is direct-filed with the Board within 91 days, but must be preceded by a prepayment/deposit of 20 percent of the amount asserted by the Commission. The deposit is paid to the Commission and a receipt is then typically attached to the notice of appeal filed with the Board. Once an appeal reaches the Board, it is docketed, acknowledged and a case file is created. At this early stage a large number of paths can lead to the final disposition. But in the standard case an evidentiary hearing will be held where the record will be made. From the record, and based on the record only, the Board may then pursue decision-making. The Board renders a decision with factual findings and legal conclusions stated. Most of the Board's decisions are on their website. A party may seek reconsideration or rehearing from a final decision within ten days. A final decision may be appealed to the district court within 28 days.

Mr. Wallace then outlined deadlines. In ad valorem cases, the Board must issue a final decision by May 1 of each year. This is a few weeks prior to the time in which the New Year's assessment must be finalized. This helps county personnel and offices, as well as taxpayers, to avoid automatic follow-up appeals in the subsequent tax year. A more recent fixed-value law also reduces the number of repeat appeals and gives parties a chance to cool off and retool their cases. In Commission cases there is no statutory deadline. In these cases the Board seeks to rule in these appeals within 6 months after the appeal is filed, or within 90-120 days after hearing.

Mr. Wallace discussed ad valorem case dispositions. He said that these results swing from year to year, or for instance from one area to another, for a variety of reasons. One reason may be new tax legislation. Tweaks to the tax code may reduce appeals, while larger changes tend to increase appeals. Even with the shortcomings inherent in these statistics, they are nonetheless telling when taken on the whole. It would probably take a three-year compilation of results to indicate a truer central tendency.

In conclusion, **Mr. Wallace** stated that he believed the results showed that the Board is being fair, open-minded, and doing something quite worthwhile for taxpayers and government within Idaho's overall tax system. The Board can be thought of as one of the safety nets underlying taxation in Idaho. He said the taxpayers are clearly getting heard by an impartial tribunal. He reported that the Board is working well at this time, and a manageable case load and the support this Committee contributed to its success.

Senator Guthrie asked about the anomaly (see attachment) in 2006 Bonner County and in 2011 in Twin Falls County. He assumed there were common reasons for the spikes, and asked what is done when a spike is seen. **Mr. Wallace** explained what may have contributed and how they made adjustments. Twin Falls was different, and they were not able to do as much in that county.

Senator Guthrie asked another question regarding the variance in number of appeals in 2013 and the number of decisions made. **Mr. Wallace** explained how surprising it is that many parties withdrawal, settle, cases get dismissed, or parties didn't show up at hearing. Sometimes the difference is 50 percent.

Senator Vick asked about the breakdown pie chart difference between counties. Southwest Idaho and the other two areas of the State are very different. Why is Southwest Idaho so different from the other two? **Mr. Wallace** explained what may be happening between different counties.

Senator Burgoyne asked if the Board adheres to its own precedents. **Mr. Wallace** explained how the Board hears every case new and that they have chosen not to set precedents.

Senator Burgoyne asked about the Board's fact finding. **Mr. Wallace** explained, and gave an example of a case that comes before the Board on a regular basis. **Senator Burgoyne** expressed additional concerns about contested case procedures.

Senator Guthrie commented on the pie chart anomaly. **Mr. Wallace** explained how the large counties got very sophisticated in how they managed cases. The smaller the sample size, the more likely these numbers don't make sense. He suspects that in Ada County they might prevail 90 percent of the time because offices are well funded, staffed and experienced.

Chairman Siddoway asked about what happens when an appeal is reversed and if that caused an adversarial situation between the Board and the county commissioners. **Mr. Wallace** replied that a difficult part of their business is that there will always be winners and losers. There's not always an opportunity with the parties to explain, but the Board has redoubled its efforts to do more public relations. **Chairman Siddoway** asked if there is an opportunity for the Board to communicate with the county commissioners. **Mr. Wallace** indicated they are reaching out, and he has the time to do much of this. He mentioned that Mr. Kinghorn and he have several meetings set up that create an opportunity to visit with different groups in order to reach out.

Senator Burgoyne asked what the reversal rate is. **Mr. Wallace** did not have a firm percentage, but gave instances and estimates of 25 percent or less.

Senator Siddoway recognized Commissioner Tom Katsilometes from the Commission in the audience. **Chairman Siddoway** extended his appreciation to both Mr. Wallace and Mr. Kinghorn for coming and giving their presentation and announced the Committee schedule for the next week.

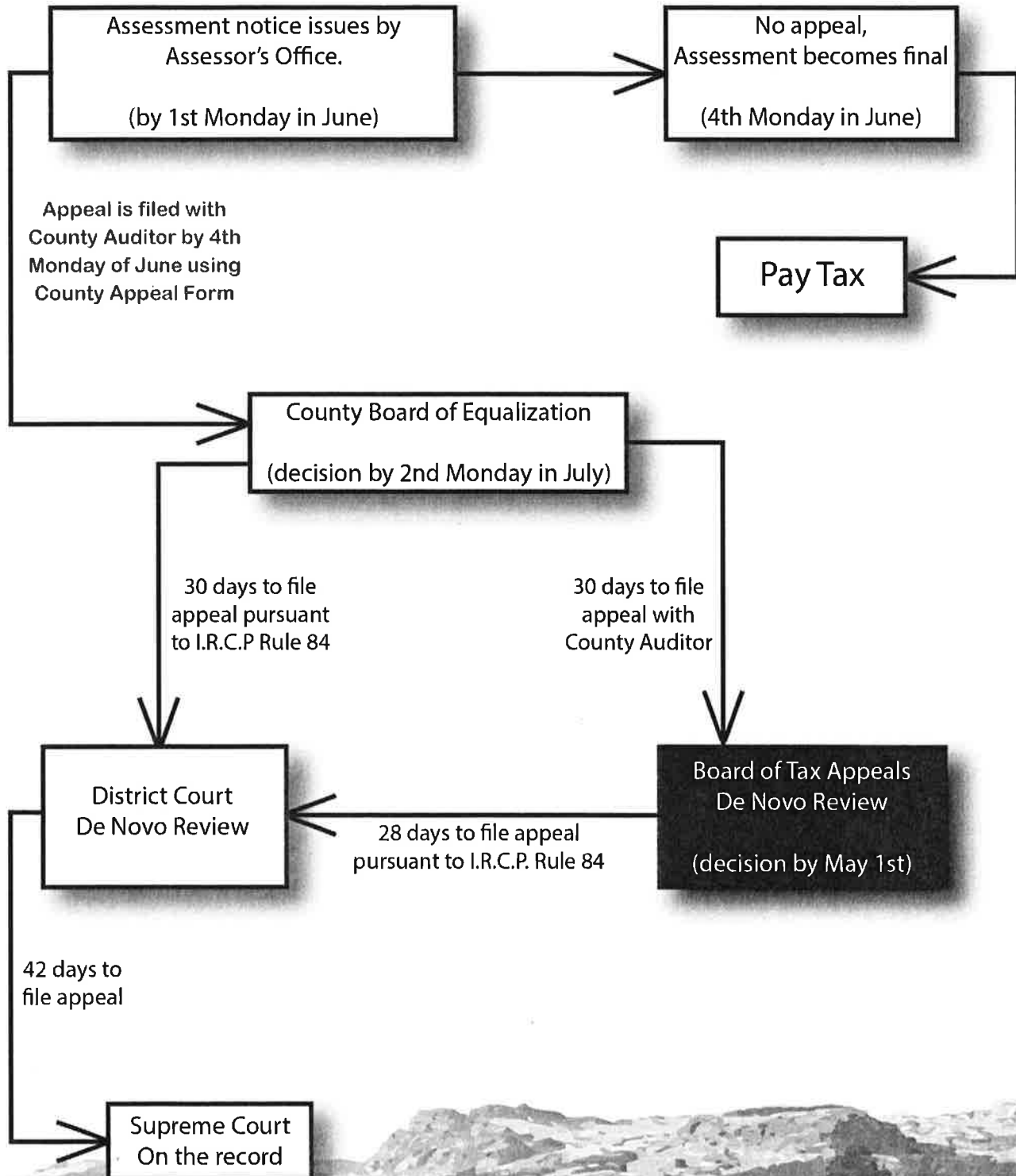
ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:08 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

IDAHO APPEAL SYSTEM

AD VALOREM ASSESSMENTS EXAMPLE



Prepared by: BTA
Date: January 2014

State Board of Tax Appeals

Ad Valorem Appeals Filed

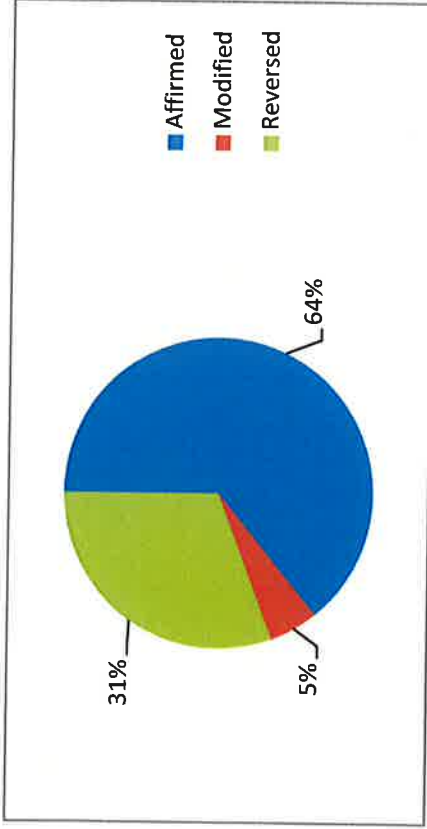
COUNTY	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Ada	83	69	85	276	170	181	87	74	105	129	38
Adams				4	4	1	4	2	3	3	1
Bannock	1	1	13	5	26	18	25	45	51	41	4
Bear Lake	1		4	11	3	1	1	3		3	
Benewah	3	1	1	10	11	8	3	9	3	1	2
Bingham	1	3		8		10	10	6	7	23	9
Blaine	1	4	3	36	9	4	17	6	4	8	2
Boise	8	14	3	9	13	21	51	9	31	3	3
Bonner	6	7	11	543	35	30	47	109	27	31	62
Bonneville	1	8	19	5	18	42	113	84	12	26	15
Boundary		1	2				12	2	1	7	4
Butte				1	9	1				1	
Camas	1						4				
Canyon	25	7	20	26	82	83	165	52	76	90	13
Caribou		1							1		
Cassia											
Clark											
Clearwater	2	5		3	1		8				
Custer	4	10	25		5	5		3		18	5
Elmore	6	1	1	27	8	1	5	4	24	2	12
Franklin											
Fremont	17	21	3	15	21	17	18	2	6		16
Gem		1	1	1		3		1	25	3	
Gooding				2		4					
Idaho	5	13	3	6	8	10		9	2	2	
Jefferson					3					1	
Jerome		1			2	22		4	13	27	4
Kootenai	33	25	20	57	89	230	43	27	25	153	16
Latah	2	19	12	2	4	1	35	3	3	2	3
Lemhi	1			2	4	10	2	1		4	10
Lewis	2	9									
Lincoln	6		1	1		3			4		
Madison	3			2	1	4	2	5	22	2	
Minidoka			2	1		5			2	3	
Nez Perce	6	7	6	4	3	6	16	23	3		1
Oneida											
Owyhee					8	2	16			4	
Payette	2	2		1	2	12	43		29	40	
Power		1							4		
Shoshone	1	1	2	29	46	1	3		1	3	
Teton		2	1	1	2	4	6	33			1
Twin Falls	11		1	1	8	48	9	26	57.1	28	16
Valley	1		22	22	172	113	249	56	21	13	
Washington	2				1			2			5
	235	234	261	1,111	768	901	994	600	1,076	671	242

Tax Commission Appeals Filed

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
STC	47	41	26	31	42	28	41	38	31	48	35
TOTALS	282	275	287	1,142	810	929	1,035	638	1,107	719	277

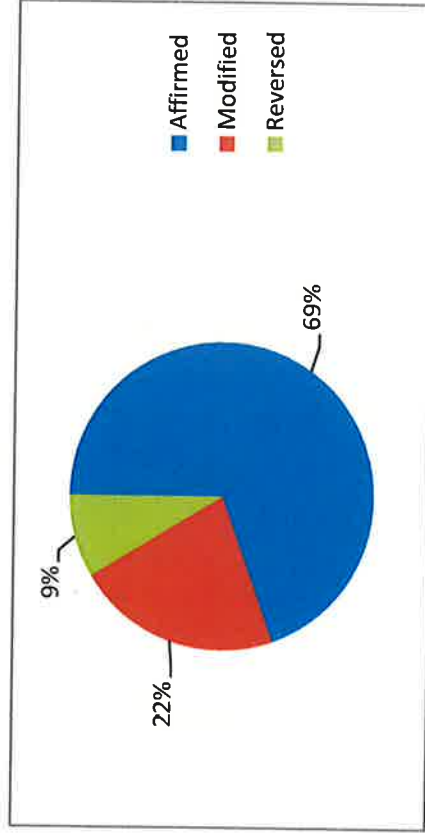
2013 Ad Valorem Decision Breakdown

EASTERN IDAHO



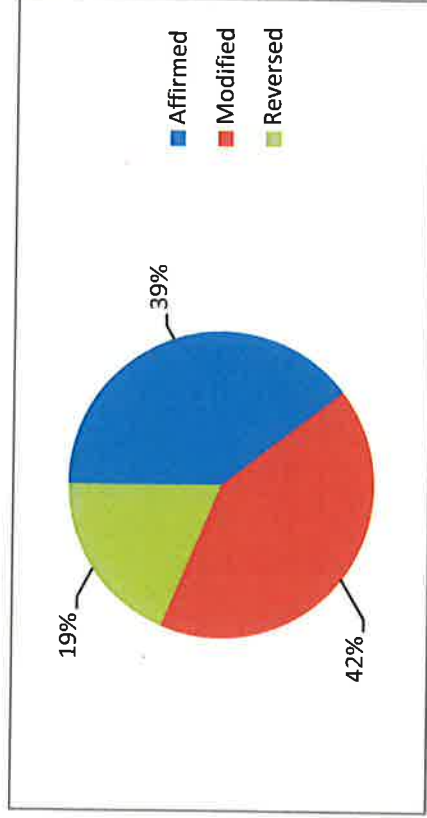
Affirmed 25
Modified 2
Reversed 12

NORTHERN IDAHO



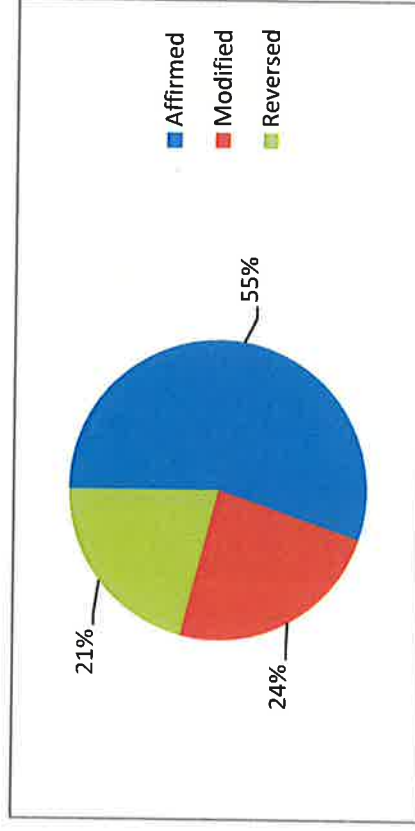
Affirmed 16
Modified 5
Reversed 2

SOUTHWEST IDAHO



Affirmed 17
Modified 18
Reversed 8

OVERALL



Affirmed 58
Modified 25
Reversed 22

Idaho Board of Tax Appeals: Adjudicating State Tax and Ad Valorem Appeals Since 1969

Linda Pike

This article is to introduce Idaho Bar members to the Idaho Board of Tax Appeals. The Board is the administrative body for hearing most Idaho state tax and property valuation appeals. Although the Board has existed for 45 years, many members of the Bar, as well as the public, do not know about this appellant process. Hopefully, after reading this, attorneys will have a better understanding of how to help their clients appeal state tax matters by using this quasi-judicial process, rather than pursuing such matters in court.

What is the Board of Tax Appeals?

In 1969, the Idaho legislature established the Idaho Board of Tax Appeals (BTA) as a quasi-judicial, independent body to hear ad valorem, property tax exemption, sales and use tax, "circuit breaker,"¹ and income tax appeals. The bulk of the BTA's caseload consists of ad valorem² appeals arising from decisions of the County Commissioners acting as the Board of Equalization in each of Idaho's 44 counties.³

The part-time Board consists of three members appointed by the Governor, with confirmation of the Senate. Members serve three-year, staggered terms. The Board must be politically balanced and members are prohibited from being politically active. In other words, the Board must at all times appear to be neutral even though each member must declare their political party affiliation when appointed. Traditionally, Board members are from different

The Board must at all times appear to be neutral even though each member must declare their political party affiliation when appointed.

geographical regions of Idaho. Currently the Board consists of David Kinghorn (Chair) from Eastern Idaho, Lee Heinrich from Southwestern Idaho, and I am the Board member from Northern Idaho. Board Members are selected based on their knowledge and experience in taxation.⁴ The Board is also supported by administrative staff that helps manage the Board's docket, as well as additional hearing officers.

Board members operate out of their own homes using fax machines, email, and phones to communicate with each other and with the support staff in Boise. In-person Board meetings are held in Boise two or three times per year. The bulk of the Board members' work consists of conducting hearings, and drafting and reviewing decisions outside the agency's Boise office.

As a working Board, members travel and conduct hearings in their respective regions. Final decisions are not rendered at hearing. Members review every decision, which requires at least two concurring signatures before becoming final. As in other judicial and quasi-judicial hearings, Board members and even hearing officers must avoid conflicts

of interests and disclose any potential conflict. Naturally, there should be no ex parte discussions with the parties about information presented at hearing.

While these rules of judicial practice may seem so fundamental to lawyers that they need not to be discussed, they are mentioned here because of the typical nature of the Board's hearings. Often the hearings involve pro se (self-represented) litigants who are unaware of these rules and want to engage in conversation prior to, or after, the hearing. Some litigants think they have been gathered just to have an informal discussion about their particular issue. The presiding hearing officer is tasked with maintaining control of the hearing so both sides are treated fairly.

Training for hearing officers and board members

Being a lawyer is not a requirement to conduct hearings, however, all Board members and hearing officers attend classes at the National Judicial College in Reno, Nevada. The basic curriculum includes a two-week session on Administrative Law and Fair Hearings. Other ad-

the assessor is the party challenging the decision of the Board of Equalization, in which case the assessor is the Appellant.

State Tax Commission appeals

The subject matter of State Tax Commission appeals typically centers on income tax, sales and use tax, or "circuit breaker" matters. Circuit breaker is a property tax reduction benefit program available to applicants who satisfy certain age, disability, and income requirements. Qualification for the circuit breaker benefit can reduce the amount of property tax the claimant must pay. State Tax Commission appeals can get complicated depending on the subject matter.

Use tax in Idaho can be a particularly difficult case type, as the code and case law are not always clear. Income tax cases can also be complicated. Because Idaho borders Washington, which does not impose income tax, sometimes people moving to Idaho from Washington do not understand, or are unaware of Idaho's income tax laws and are surprised to learn their retirement benefits or other income may be taxed in Idaho.

Other income tax cases may involve residency or domicile. These cases can also be complicated, where a taxpayer resides in more than one state or conducts business in multiple states. Income tax issues are by their nature usually difficult. Appellants may benefit from being represented by an attorney or advised by an accountant.

Generally in circuit breaker appeals, Appellants are not represented by an attorney because the cost is usually prohibitive. Sometimes the issue may be a change in marital status or disability qualification.

Many times the issue centers on whether certain medical expenses should be allowed. These cases are stressful because often there is a lack of understanding by the Appellant about the program's requirements, or because of sad life circumstances of the Appellant. As an example of the latter situation, by Idaho law, to be considered disabled, one must be declared disabled by the social security administration. If the person for whatever reason has never qualified for social security benefits, then regardless of how disabled they actually are, they do not qualify for the circuit breaker benefit.

Most cases arising from the County Board of Equalization, however, are focused on the market value of the property under appeal.

When, where, how?

Appeals brought under Idaho Code § 63-511 must be filed within 30 days of the notice of a decision of the County Board of Equalization. Typically County Board of Equalization decisions are issued in written form, but such is not required. Notice of appeal must be filed with the county auditor in the county in which the property assessment originated.¹⁰ These appeals may also include legal issues, such as whether

the property qualifies for an exemption under the various exemption statutes in the Code. Most cases arising from the County Board of Equalization, however, are focused on the market value of the property under appeal.

Appeals from decisions of the State Tax Commission are brought under Idaho Code §63-3049. These appeals must be filed directly with the BTA within 91 days after the receipt of the State Tax Commission's decision. A 20% prepaid deposit must also be made to the State Tax Commission within the 91-day appeal window. Circuit breaker appeals, however, must be filed with the BTA within 30 days of the State Tax Commission's decision to disapprove the taxpayer's circuit breaker application.¹¹

Why should I care?

Many Appellants, especially in cases concerning income and sales tax, could benefit from the advice of counsel. These cases can be complicated and often turn on case law, of which the taxpayer might be unaware. Even ad valorem cases can get confusing for self-represented parties because they may not understand the procedural rules or are generally unfamiliar with motions and the discovery process. If an ad valorem case has issues of qualification for exemption, these are legal matters and the advice of counsel might indeed change the outcome of the case.

Though no formal calculation exists, the BTA saves the court system a good deal of time and expense by hearing these various tax-related matters. The BTA's annual caseload varies but some years the docket has exceeded 1,000 appeals. Without the BTA, the district court system would

JOINT
**SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
AND
HOUSE REVENUE & TAXATION COMMITTEE**
3:00 P.M.
Lincoln Auditorium WW-2
Tuesday, January 20, 2015

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Opening Remarks	Commissioner Ken Roberts
	Overview of State Tax Commission	Michael Chakarun
	Individual Income Tax Review	Cynthia Adrian
	Motor Fuel Tax Review	Don Williams
	Product Tax Review	Michael Chakarun

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

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MINUTES
JOINT MEETING
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Tuesday, January 20, 2015

TIME: 3:00 P.M.

PLACE: Lincoln Auditorium WW-2

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie, Werk, and Burgoyne
Chairman Collins, Vice Chairman Trujillo, Representatives Moyle, Raybould, Anderson, Anderst, Dayley, Hartgen, Kauffman, Chaney, Nate, Scott, Thompson, Erpelding, Nye, and Rudolph

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: The meeting was called to order at 3:00 p.m.

PRESENTATION Idaho State Tax Commission

Representative Collins introduced **Commissioner Ken Roberts** of the Tax Commission who gave announcements and introduced Commissioner Richard Jackson, and Commissioner Tom Katsilometes. **Mr. Roberts** also introduced **Michael Chakarun**, Commission Tax Policy Manager. **Mr. Chakarun** gave an overview of the Commission including field offices, statistics, and various divisions. These divisions include: revenue operations, return, processing, audit, collection, property tax, and tax policy. He also highlighted five support units and who they are managed by.

Mr. Chakarun introduced **Cynthia Adrian** who spoke about individual income tax. She discussed general information, tax brackets, and IRS conformity. She reviewed what income is taxable in Idaho. **Ms. Adrian** also explained exemptions, exclusions, deductions, and credits.

Ms. Adrian introduced **Don Williams** who spoke about the motor fuel tax. **Mr. Williams** spoke about the Petroleum Clean Water Trust Fund which details fee, products, exemptions, and suspension. He outlined terminology and taxation, which motor fuels are taxable, how motor fuels are measured and taxed, and lastly who pays the tax and fee. **Mr. Williams** defined a distributor license as well as International Fuel Tax Agreement. He further explained underpayment and overpayment of tax, as well as distribution of taxes and fees.

Mr. Chakarun spoke about product and miscellaneous taxes. He commented on the wine tax and where it goes as well as the beer tax, cigarette tax, tobacco tax, kilowatt-hour tax, and mine license tax.

Mr. Chakarun concluded and answered questions.

ADJOURNED: There being no further business, the meeting adjourned at 4:45

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #2
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, January 21, 2015

SUBJECT	DESCRIPTION	PRESENTER
RULES REVIEW	IDAPA 35-State Tax Commission	
<u>Docket Number 35-0101-1401</u>	Income Tax Administrative Rules - Multistate Tax Commission & Broadband Credit	Cynthia Adrian, Idaho State Tax Commission
<u>Docket Number 35-0101-1402</u>	Income Tax Administrative Rules - Suspended Losses & Investment Income	Cynthia Adrian, Idaho State Tax Commission
<u>Docket Number 35-0101-1403</u>	Income Tax Administrative Rules - Non-negotiated	Cynthia Adrian, Idaho State Tax Commission
<u>Docket Number 35-0201-1401</u>	Tax Commission Administration & Enforcement Rules - Interest Rate & Agency Changes	Cynthia Adrian, Idaho State Tax Commission
<u>Docket Number 35-0102-1401</u>	Idaho Sales And Use Tax Administrative Rules - Cloud Computing, Software, Digital Products	McLean Russell, Idaho State Tax Commission
<u>Docket Number 35-0102-1402</u>	Idaho Sales And Use Tax Administrative Rules - Drop Shipments	McLean Russell, Idaho State Tax Commission
<u>Docket Number 35-0102-1403</u>	Idaho Sales And Use Tax Administrative Rules - Out of State Contract Exemption, Lease Clarification, Logging Exemption, Hotel/Motel Exemption Certificate	McLean Russell, Idaho State Tax Commission
<u>Docket Number 35-0102-1404</u>	Idaho Sales And Use Tax Administrative Rules - "Contractor Improving Real Property" definition update, Payments for Multiple Tax Types, New Resident-Military Personnel Exemption	McLean Russell, Idaho State Tax Commission

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COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Werk
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: slloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 21, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, and Guthrie

ABSENT/ EXCUSED: Senators Werk, and Burgoyne

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:01 p.m.

PASSED THE GAVEL: Chairman Siddoway passed the gavel to Vice Chairman Johnson.

MINUTES: Vice Chairman Johnson introduced Cynthia Adrian, tax policy specialist with the Idaho Tax Commission (Commission).

DOCKET NO 35-0101-1401: **Ms. Adrian** presented Rule 560 which is being amended to be consistent with the language from the multi state Tax Commission.

Ms. Adrian presented Rule 750 and reported that the change to this rule had to do with giving guidance to taxpayers regarding the carryover of the broadband tax credit. She said they had a tax payer inquire how the 14 year carryover period works. The Tax Commission thought it would be good to put it in a rule so that everybody could understand how the carryover works. **Chairman Siddoway** inquired as to whether or not this rule changed anything. **Ms. Adrian** replied that it did not; it served as additional information and an example.

MOTION: **Senator Vick** moved to approve **Docket No. 35-0101-1401**. **Chairman Siddoway** second the motion. The motion carried by **voice vote**.

DOCKET NO 35-0101-1402: **Ms. Adrian** presented Rule 268. It is meant to give guidance to part-year and non-resident tax payers regarding suspended losses from pass-through entities. There has not been any previous guidance.

Senator Vick stated his concern for a need for a date on the Internal Revenue Code. He stated it would be helpful if the code had a date and requested for it to be included in the future if possible.

Ms. Adrian presented Rule 275. The change provides an example to part-year and non-resident tax payers who have income from a qualified investment partnership. If you have income from a qualified investment partnership, there are certain parts you can exclude. If a tax payer has income that would be taxable if they received it directly, then it's non-excludable. Previously there was not an example given that showed how that was handled.

MOTION: **Senator McKenzie** moved to approve **Docket No. 35-0101-1402**. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

**DOCKET
NUMBER
35-0101-1403**

Ms. Adrian presented Rule 075 having to do with non negotiated rules which are required by statute. This rule is for tax brackets and is being amended to add the tax brackets for calendar year 2014 and remove the information for calendar year 2009 so only five years of historical data is retained in the rule.

Ms. Adrian presented Rule 190 that deals with the Idaho Medical Savings Account. It is being amended consistent with 2014 House Bill 595a to increase the maximum amount deductible from 2,000 to 10,000 for a single individual. **Senator Siddoway** inquired about the fiscal note attached to this deduction.

Ms. Adrian presented Rule 263 is a statutory change per Idaho code Section 63-3026A which tells about the guaranteed payments treated as compensation and says that it will be adjusted annually. **Senator Johnson** asked for clarification as to whether or not the adjustment stayed the same from 2013 to 2014. **Ms. Adrian** confirmed that his assumption was correct and that the 2013 amount is the same as 2014.

Ms. Adrian presented Rule 771 which is a grocery credit rule that adds an amount for 2014. It is \$100 taxable income of \$1,000 or less and \$90 for taxable income more than \$1,000.

Ms. Adrian presented Rule 872 and stated that this is being amended to change language from split monthly to semimonthly.

MOTION:

Senator Vick moved to approve **Docket No. 35-0101-1403**. **Senator Bayer** second the motion. The motion carried by **voice vote**.

**DOCKET NO
35-0201-1401:**

Ms. Adrian presented Rule 310 which is part of the non-negotiated rules and is an interest rate. This statute explains how it should be determined each year. For 2015 it is 4 percent.

Ms. Adrian presented Rule 501 which changes terminology.

MOTION:

Chairman Siddoway moved to approve **Docket No. 35-0201-1401**. **Senator McKenzie** second the motion. The motion carried by **voice vote**.

Vice Chairman Johnson thanked Ms. Adrian and introduced McLean Russell, a tax policy specialist with the Tax Commission.

Vice Chairman Johnson invited McLean Russell to the podium and asked him to introduce himself.

**DOCKET NO
35-0102-1401:**

Mr. Russell presented Rule 27 dealing with computer equipment, software, and data services. In response to HB 598, passed during the 2014 Legislative Session, this rule is being amended to clarify that software accessed remotely (i.e. cloud-based software) is not tangible personal property. In addition, software delivered electronically or by the load and leave method will no longer be tangible personal property. Finally, the rule clarifies that digital books, games, music, and movies are tangible personal property regardless of how they are transferred to the user. The Commission held public meetings on how to revise Rule 27. He reported that after all their discussions there are two major unresolved concerns.

Mr. Russell proceeded to review the first concern which is an exception for live broadcasts, television broadcasts, and cable broadcasts. Rule 27 makes clear that offerings like Netflix video streaming services are taxable.

A lengthy discussion ensued concerning the changes to Rule 27 in response to the significant changes to the law enacted by the passage of HB 598 last year.

Senators Rice, Vick, Bayer, Siddoway, and Johnson, submitted questions to Mr. McLean in efforts to clarify. **Senator Bayer** expressed a desire for further discussion of Rule 27 in order to have resolution to move forward and asked for the Committee's consideration of further dialog before proceeding on the voting of this rule.

Vice Chairman Johnson asked if there was anyone in the audience that would like to testify.

Jay Larsen with the Idaho Technology Counsel testified in response to the legislation.

Senators Vick, Chairman Siddoway, Guthrie, Bayer, and Rice questioned Mr. Larsen regarding streaming, fiscal impact, business incentives, Netflix date beginning to collect tax, change in tax policy, and internet delivery systems.

Senators Bayer, and Vick asked Mr. Russell additional questions concerning payment of use tax.

MOTION: **Chairman Siddoway** moved to hold **Docket No. 35-0102-1401** until a later date in the Session. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

DOCKET NO 35-0102-1402: **Mr. Russell** presented Rule 22 having to deal with drop shipments. Nothing has changed in how drop shipment transactions are taxed, but the proposed changes should make it clearer to manufacturers, retailers, and customers what their responsibilities are related to sales or use tax.

MOTION: **Senator Rice** moved to approve **Docket No. 35-0102-1402**. **Chairman Siddoway** second the motion. The motion carried by **voice vote**.

DOCKET NO 35-0102-1403: **Mr. Russell** presented Rule 012 having to do with contractors improving real property. The change is to clarify what is covered by the out of state contract exemption and what is not. It clarifies the exemption only applies to materials.

Mr. Russell presented Rule 024 which deals with rentals or leases of tangible personal property. The changes are to clarify the original intent of only one lease type applying to a particular lease contract.

Mr. Russell presented Rule 102, which deals with logging. The changes clarify that materials and equipment used on a tree farm for a purpose other than harvesting can qualify under the production exemption, if the criteria of that exemption is met, but not the logging exemption. He cautioned that the Commission thought it would be prudent to go back to the drawing board on this rule to address the bigger picture of tree farms in the rules and requested the Committee vote to reject Rule 102.

Mr. Russell presented Rule 128 dealing with hotel and motel establishments accepting one of two exemption certificates when a guest stays from an exempt organization such as a governmental agency. This rule is being amended to require exempt organizations to use form ST-104-HM to claim an exemption on purchases of lodging accommodations. The forms provide details and explanations enabling the retailer to easily determine whether the sales should be taxed. The Commission will have the information needed to verify the exemption claim.

A lengthy discussion ensued with questions from **Senators Bayer, Guthrie, Rice, and Chairman Siddoway** to Mr. Russell on this rule.

MOTION: **Chairman Siddoway** moved to approve **Docket No. 35-0102-1403** with the exception of Rule 102 (logging rule) and Rule 128 (certificates for resale and exemption of claims) to be rejected. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

Docket No. 35-0102-1404 is moved to January 28, 2015 meeting.

PASSED THE GAVEL: **Vice Chairman Johnson** returned the gavel to **Chairman Siddoway**.

ADJOURNMENT: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:41 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
AND
HOUSE REVENUE & TAXATION COMMITTEE
3:00 P.M.
WW-17

Thursday, January 22, 2015

Please note the room has changed.

SUBJECT	DESCRIPTION	PRESENTER
Presentation	Business Income Tax Review	Tom Shaner
	Sales Tax Review	McLean Russell

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

email: sloc@senate.idaho.gov

MINUTES
JOINT MEETING
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Thursday, January 22, 2015

TIME: 3:00 P.M.

PLACE: WW-17

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Vick, Bayer, Guthrie, and Burgoyne

Chairman Collins, Vice Chairman Trujillo, Representatives Moyle, Raybould, Anderson, Anderst, Dayley, Hartgen, Kauffman, Chaney, Nate, Scott, Thompson, Erpelding, Nye, and Rudolph

ABSENT/ EXCUSED: Senators Rice and Werk

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the joint meeting of the Local Government and Taxation Committee (Committee), and the House Revenue and Taxation Committee (Committee) to order at 3:00 p.m.

PRESENTATION: Idaho State Tax Commission (Commission)

Chairman Siddoway welcomed everyone and introduced **Michael Chakarun**, Commission Tax Policy Manager who gave announcements and introduced Tom Shaner, Income Tax Specialist with the Idaho State Tax Commission.

Mr. Shaner spoke about expenditures, credits, exclusions, and deductions. He explained who must file, what forms are used, business trends, and forms. He also highlighted multistate taxpayers, the concept of business versus non-business income, and the apportionment formula. He talked specifically about credits. These credits include: business and investment, research activity, broadband investment, incentive investment, and other business type credits.

Mr. Shaner then entertained questions from **Senators Johnson, Guthrie, Burgoyne, and Bayer** on this topic.

Chairman Siddoway thanked Mr. Shaner. He asked Michael Chakarun to introduce McLean Russell, a Tax Policy Specialist to talk about sales and use tax.

Mr. Russell reviewed a graph of total sales and use tax returns filed, and a distribution chart of sales/use tax. He started with the basics of sales tax. The following topics were presented: what is subject to sales tax, taxable sales price, and paying sales tax. **Mr. Russell** then explained the basics of use tax, a companion to sales tax. He explained that the primary purpose of the use tax is to catch what sales tax misses. **Mr. Russell** further discussed exemptions of use tax and current issues including the Marketplace Fairness Act. This act is federal legislation that would allow states to impose a sales tax collection requirement on out-of-state sellers on their sales delivered to customers in that state.

Mr. Russell received questions from **Senator Burgoyne** on this topic.

Mr. Russell explained other current issues that include software, digital products other technology, and an exemption on groceries.

Senator Burgoyne asked about the grocery tax and how much it contributes to revenues. **Mr. Chakarun** said he would report back on those numbers, but that he didn't have them. **Senator Siddoway** commented on the grocery tax as well. **Senator Burgoyne** asked about the amount it costs the state of Idaho to administer the program. **Michael Chakarun** said he would report back on those numbers, but that he didn't have them.

Chairman Siddoway thanked Mr. Russell and the Committee.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting adjourned at 4:50 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

JOINT
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
AND
HOUSE REVENUE & TAXATION COMMITTEE
3:00 P.M.
TOUR at ISTC
Tuesday, January 27, 2015

Please note that there will be transportation located in front of the capitol at 2:30 p.m.

SUBJECT	DESCRIPTION	PRESENTER
Tax Commission Tour	Tax Administration Issues: Fraud, Identity Theft, Forms	Doreen Warren
	Revenue Operations in Action: Operations Tour	Randy Tilley

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

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MINUTES
JOINT MEETING
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Tuesday, January 27, 2015

TIME: 3:00 P.M.

PLACE: Idaho State Tax Commission

**MEMBERS
PRESENT:** Chairman Siddoway, Senators Guthrie, and Werk

Chairman Collins, Vice Chairman Trujillo, Representatives Moyle, Raybould, Anderson, Anderst, Dayley, Hartgen, Kauffman, Chaney, Nate, Scott, Thompson, Erpelding, Nye, and Rudolph

**ABSENT/
EXCUSED:** Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, and Burgoyne

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: The meeting was called to order at 3:00 p.m.

PRESENTATION: The Joint Committee (Committee) took a tour of the Idaho State Tax Commission (ISTC). **Doreen Warren**, Tax Division Administrator, and **Randy Tilley**, Audit Division Administrator, welcomed the Committee.

The first half of the tour included a seminar that briefed Committee members about revenue operations, forms processing, development, fraud, and identity theft. The focus this year was on fraud, identity theft, and forms. **Ms. Warren** reported that electronic filing was more efficient compared to paper processing, and it was a primary source of revenue this past year. The ISTC processed 385,000 payments totaling \$2.3 billion. She disclosed that individual income tax returns were processed 771,580, and e-filed 597,494 for an amount of \$286,206,604. ISTC processed 92,472 business income tax returns.

Ms. Warren proceeded to explain form and instruction development to meet legislative requirements, system development for processing, third-party software and form providers as well as the taxpayer impact. She discussed fraud, and the current statistics showed an increase in fraudulent activity in the last year. Fraud trends, and common tax fraud methods included: false documents, hiding income (cash under the table), inflating business expenses, falsely claiming credits or deductions, and tax identity theft.

Ms. Warren highlighted that identity theft was a prominent theme. She cited background statistics, cases identified, and red flags for which to look. She related examples of fraud cases, how they were caught in the audit process, and the continued challenges that confront the ISTC. Pulled resources to work fraud and identity theft cases results in fewer audits, and slower return processing. She described the efforts by the ISTC to address the detection and prevention of fraud.

The second half of the tour was a general operations tour of the Audit and Collection Division, the Revenue Operation Division, Taxpayer Services, and Tax Policy/Appeals with Chris Barry, ISTC Specialist.

Chris Barry gave closing remarks, answered questions, and thanked the Committee members for coming. The Committee returned to the Statehouse.

ADJOURNED: There being no further business, the meeting adjourned at 5:00 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, January 28, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Review of Minutes from January 15, 2015 Review of Minutes from January 20, 2015	Senator Guthrie Senator Johnson
RULES REVIEW	IDAPA 35-State Tax Commission	
<u>Docket Number 35-0102-1404</u>	Idaho Sales and Use Tax Administrative Rules - "Contractor Improving Real Property" definition update, Payments for Multiple Tax Types, New Resident-Military Personnel Exemption	McLean Russell, Idaho State Tax Commission
<u>Docket Number 35-0103-1401</u>	Property Tax Administrative Rules - complaints (120), homeowners exemption (609), previous affidavit for QIE (988)	Alan Dornfest
<u>Docket Number 35-0103-1403</u>	Property Tax Administrative Rules - appraisal certification (126), assessment mapping certification (128)	Alan Dornfest
<u>Docket Number 35-0103-1404</u>	Property Tax Administrative Rules - defining fixtures (205), consolidating exemptions (315), deleting reference regarding exempt personal property (508), reporting property exemption (509), changing name fixtures (512), changing administrative procedures (626), examples of taxpayer eligibility for property exemption (627), gross income from livestock sales (645), Administration of personal property exemption (803), Budget increase penalties (805)	Alan Dornfest
<u>Docket Number 35-0103-1405</u>	Property Tax Administrative Rules - Clarification: administrative base, increment values, annexed value, adds state authorized plant facility funds (804), Adds exempt personal property to value used in calculation of city revenue sharing (995)	Alan Dornfest
<u>Docket Number 35-0103-1501</u>	Property Tax Administrative Rules (Temporary Rule) - update references (006)	Alan Dornfest

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Werk
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, January 28, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators Rice, Bayer, Guthrie, Werk, Burgoyne, and Vick

ABSENT/ EXCUSED: Senator McKenzie

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:05 p.m.

MINUTES: **Chairman Siddoway** called for the approval of the Minutes from January 15, 2015, and January 20, 2015.

MOTION: **Senator Guthrie** moved to approve the Minutes of January 15, 2015. **Senator Bayer** second the motion. The motion carried by **voice vote**.

MOTION: **Senator Johnson** moved to approve the Minutes of January 20, 2015. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Siddoway passed the gavel to Vice Chairman Johnson.

Vice Chairman Johnson introduced McLean Russell, Tax Policy Specialist with the Idaho State Tax Commission (Commission).

DOCKET NO 35-0102-1404: **Mr. Russell** presented Rule 010, the definition for contractor improving real property, which is being amended to update obsolete terms by using the term speculative builder in place of speculation contractor and spec contractor.

Mr. Russell presented Rule 105, time and imposition of tax, returns, payments, and partial payments. The rule is being updated to clarify that a single payment may be made to cover liabilities from multiple tax types.

Mr. Russell presented Rule 107, vehicles and vessels. This rule is being updated to reflect legislative changes related to the use tax exemption for new residents and military personnel and ensure that the rule aligns more closely with the statutory exemption.

Senator Rice asked about form requirements for military personnel and other residents as far as uniformity in registering their vehicle. The concern was making sure there wasn't a standard more rigorous for military personnel than for other people. **Mr. Russell** responded by saying there is no difference in the forms required by military personnel to register their vehicles, and acknowledged the difference in language Senator Rice highlighted. He stated the Commission will look at it for uniformity and a possible change in the future if it needs to be updated.

Senator Burgoyne inquired about 05a within Rule 107 and how the second sentence operates differently than the first. **Mr. Russell** responded by explaining that the first sentence reflected only statutory language whereas the second sentence spoke specifically about showing proof of registration and title that meets the time periods of the statute.

Senator Rice stated his understanding about language interpretation within Rule 107 regarding the time frame from which the purchase was made to the registration of the vehicle, and also the requirement to provide proof of registration only, not needing other proof such as proof of purchase. **Mr. Russell** confirmed his understanding to be correct.

MOTION:

Senator Werk moved to approve **Docket No. 35-0102-1404**. **Senator Siddoway** second the motion. The motion carried by **voice vote**.

Vice Chairman Johnson thanked Mr. Russell and introduced Alan Dornfest, Property Tax Bureau Chief with the Idaho State Tax Commission.

Vice Chairman Johnson invited Alan Dornfest to the podium and asked him to introduce himself.

**DOCKET NO
35-0103-1401:**

Mr. Dornfest presented Rule 120. This rule is being amended to define the subject matter of complaints and to provide a timeline for hearing the complaints. The words public official will be changed to county official, and the subject matter of any complaint investigated is limited to property tax assessment and levy limit types of questions.

Senator Werk commented on a typo on page 56.

Senator Rice asked how this rule is limited to the kinds of things the Tax Commission is assigned. **Mr. Dornfest** reported that the Commission didn't try to exclude everything that was in their scope of investigation, but that it was a work in progress and may change to encompass more exclusions in the future.

Chairman Siddoway asked if this rule had any bearing on HB 560 brought last year that wanted accountability reporting to all the taxing districts within the jurisdiction of the state, counties, and cities. **Mr. Dornfest** stated that it did not.

Mr. Dornfest presented Rule 609 which is being amended to provide that the assessor may remove a property's homestead exemption if, by April 15 of the tax year, the taxpayer owns a different homestead and requests that the exemption be transferred to the second homestead.

Senator Vick clarified receiving the initial homeowners exemption only if it was applied for prior to April 15th. **Mr. Dornfest** confirmed.

Mr. Dornfest presented Rule 988. This rule related to the Qualified Investment Exemption (QIE), an exemption of personal property for two years in cases where the tax payer qualifies for the investment tax credit under income tax law, but has a loss in a particular year so he/she cannot use the investment tax credit. They could carry it over or at their option take a two year personal property exemption. This rule is being amended to delete the reference to an annual affidavit which has been deleted from Idaho Code § 63-602KK by last years HB 441a.

Chairman Siddoway made mention of Rule 120 and the possible correction of the typo. He asked for verification of what can and cannot be done in this circumstance of needing a grammatical error corrected. **Chairman Siddoway** requested Dennis Stevenson, State Administrative Rules Coordinator, come to the podium and clarify this issue. **Mr. Stevenson** confirmed he could make the correction.

MOTION:

Senator Burgoyne moved to approve **Docket No. 35-0103-1401**. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

Senator Rice opposed the motion to change Rule 120, and stated his reason in doing so is for citizens to more clearly understand what kind of things they can actually complain to the Commission about. **Senator Rice** wants to be recorded as having voted against passing **Docket No. 35-0103-1401**.

**DOCKET NO
35-0103-1403:**

Mr. Dornfest presented Rule 126 which is being amended to show the changes to the method of gaining the number of courses required for appraisal certification. This is done by providing an opportunity to challenge one of the two required courses by passing a test.

Mr. Dornfest presented Rule 128, a companion to Rule 126. This property tax rule is being amended to show changes to the method of gaining the number of courses required for cadastral certification by providing an opportunity to challenge one of the two required courses by passing a test.

MOTION:

Senator Guthrie moved to approve **Docket No. 35-0103-1403**. **Chairman Siddoway** second the motion. The motion carried by **voice vote**.

**DOCKET NO
35-0103-1404:**

Mr. Dornfest presented Rule 205, which is being amended to allow the rule to conform to Idaho Code § 63-201(9) as amended by HB 441a, which recently became law. The rule deletes language that is inconsistent with current law regarding the three factor test which is used to determine if an item of property is a fixture and therefore real property.

Senator Burgoyne asked about a contradiction in the previous discussion in the House Committee about the definition of fixtures. He noted there is the three factor test and provisions in the rules that seemed to set a different standard for determining fixtures. He inquired if this has been resolved. **Mr. Dornfest** replied it was taken care of statutorily in HB 441 as amended.

Mr. Dornfest presented Rule 315. This rule deletes the specific statutory references to the various property tax exemptions and adds the words "property exempt from property tax". This rule makes use of a ratio study to equalize the Boise School District per Idaho Code § 63-315.

Mr. Dornfest presented Rule 508 and recommended deleting this rule as obsolete. There is no longer a need due to HB 315 and HB 383. This rule deletes personal property exempt value notification by taxing district or unity rule due to reporting changes. It also deletes the notice requirements made unnecessary by statutory changes.

Mr. Dornfest presented Rule 509, which is being amended to delete the requirement to report on abstract exempt personal property and certain exempt oil and gas well property. This rule had required the reporting of the personal property exemption amount. SB 1213 deleted the need to apply for the oil and gas well exemption.

Mr. Dornfest presented Rule 512. This rule deletes the word "fixtures" from the heading describing Category 59 property items. The category is used for personal property, and fixtures are statutorily defined as real property and should not be included under this category.

Mr. Dornfest presented Rule 626, which is being amended to clarify that personal property declarations need not be filed every fifth year, and replacement funds which have been established as of 2013 may need to be adjusted if errors are discovered. The administrative and replacement money information is to remain in Rule 626, while the taxpayer ownership examples contained in this rule will be transferred to proposed Rule 627.

Senator Rice questioned the old language versus the new language. Much discussion ensued regarding the replacement money paid to the county and the obligations by the county to recover monies from an improper claim made by a taxpayer. **Mr. Dornfest** reiterated the intent is how the language reads and attempted to clarify by citing an example.

Vice Chairman Johnson commented on the inconsistency of what seemed to be double underlines to reference italics. **Mr. Dornfest** indicated that the double underline is the additional change, and the italics are meant to be used as a differentiation of various edits already completed.

Mr. Dornfest presented Rule 627, which is the companion rule to Rule 626, and a new rule with no changes. This rule explains the terms of common enterprise and taxpayer relationships transferred from Rule 626.

Mr. Dornfest presented Rule 645, relating to land actively devoted to agriculture. This rule changes the existing language from "requires net income when selling livestock" to "requires gross income when selling livestock" to be consistent with statute.

Mr. Dornfest presented Rule 803, which is a budget certification rule that deals with the information that the Commission is required to receive each year from any taxing district that wants to have property tax and what exactly they need to submit. It is being amended to require the amount of personal property replacement funds received by the taxing districts to be subtracted before levies are computed. This conforms with HB 441a.

Chairman Siddoway asked about the 3 percent cap restriction; does a county have the option after three or four years to take a 10 percent increase at one time or would the cap restrict that? **Mr. Dornfest** replied by giving an example that showed counties were entitled to take the increase in one lump sum or a portion upon their discretion.

Mr. Dornfest presented Rule 805, which is amended to provide a procedure for disallowing certain budget increases in accordance with HB 560 when entities do not comply with reporting requirements.

MOTION:

Chairman Siddoway moved to approve **Docket No. 35-0103-1404**. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

**DOCKET NO
35-0103-1405:**

Mr. Dornfest presented Rule 804T, which adds the State Authorized Plant Facility Fund to the list of those funds excluded from generating property tax to be allocated to urban renewal agencies. This administrative rule clarifies splits in parcels, and whether or not the personal property exemption comes off base value or increment value.

Mr. Dornfest presented Rule 995T, a sales tax distribution formula. The amendment requires the amount of the 2013 personal property tax exemption be included in the market value for assessment purposes for the computation of the amount of sales tax to be distributed to cities.

Senator Burgoyne asked if the cities had been consulted regarding this rule; had **Mr. Dornfest** heard from Boise and Garden City with feedback? **Mr. Dornfest** stated the Commission provided a great deal of information at several events and received no comments by either city.

MOTION:

Senator Guthrie moved to approve **Docket No. 35-0103-1405**. **Senator Werk** second the motion. The motion carried by **voice vote**.

DOCKET NO 35-0103-1501: **Mr. Dornfest** presented Rule 006, a temporary rule. **Mr. Dornfest** apologized in advance to the Committee by reporting the notice of this rule not being published. He asked that this rule to be continued for calendar year 2015, so they can correct mistakes.

MOTION: **Chairman Siddoway** moved to approve **Docket No. 35-0103-1501**. **Senator Werk** second the motion. The motion carried by **voice vote**.

Vice Chairman Johnson reminded the Committee that there is still one docket that is being held, and it will be taken up at a further time this Session.

PASSED THE GAVEL: Vice Chairman Johnson returned the gavel to Chairman Siddoway.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:45 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
AND
HOUSE REVENUE & TAXATION COMMITTEE
3:00 P.M.
WW-02 Lincoln Auditorium
Thursday, January 29, 2015

Please note that the only change is the presenter of the minutes from 1/21/15

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from January 21, 2015	Senator Bayer
	Approval of Minutes from January 22, 2015	Senator Vick
PRESENTATION	Property Tax Review	Alan Dornfest

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

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MINUTES
JOINT MEETING
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
HOUSE REVENUE & TAXATION COMMITTEE

DATE: Thursday, January 29, 2015

TIME: 3:00 P.M.

PLACE: Lincoln Auditorium WW-02

MEMBERS PRESENT: Vice Chairman Johnson, Senators McKenzie, Rice, Bayer, Guthrie, Werk and Burgoyne
Chairman Collins, Vice Chairman Trujillo, Representatives Moyle, Raybould, Anderson, Anderst, Dayley, Hartgen, Kauffman, Chaney, Nate, Scott, Thompson, Erpelding, Nye and Rudolph

ABSENT/ EXCUSED: Chairman Siddoway and Senator Vick

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: The meeting was called to order at 3:00 p.m.

MINUTES: Approval of Minutes from January 21, 2015 and January 22, 2015 was moved to the February 4, 2015 meeting.

PRESENTATION: Idaho State Tax Commission (Commission)

Michael Chakarun, Commission Tax Policy Manager introduced Alan Dornfest, Property Tax Policy Bureau Chief with the Idaho State Tax Commission.

Mr. Dornfest spoke about presentation objectives that included: understanding property tax, learning how property tax fits into Idaho's tax base, and understanding tax burden. He explained Idaho property tax essentials which are current, annually determined, and market value based. He also highlighted the uniform rate for all classes of property and the independently determined rates for each of about 1,000 taxing districts, both of which are specific to budget based property tax. With the exception of voter approval, an annual increase in budgets is limited to 3 percent plus new construction and annexation. Tax is levied on most real and business personal property. Tax is generated and used locally:

1. ~\$46,124 (2014) to the State Public School Income Fund (taxes on small railcar companies paid directly to the State).
2. \$1,552 million (2014) to local units of government.
3. \$59.3 million (2014) to urban renewal agencies.

Mr. Dornfest expounded upon the many varieties of tax relief that are available including partial and full exemptions, and the Circuit Breaker where the State pays part, sometime all, of the property tax.

Mr. Dornfest examined personal property tax and reported that personal property taxes in Idaho were between \$104 and \$137 million out of \$1,552,000,000 in total property taxes in 2014 (7 percent to 9 percent statewide but much higher in some counties). These amounts reflected a 2014 partial exemption. In addition to furniture, fixtures, machinery, and equipment, the above figure for personal property tax includes railcars and certain other portions of operating property.

Mr. Dornfest reviewed the assessment of property system of valuation general requirements, the recognized appraisal methods to be employed in determining assessed value, and all property taxable unless expressly exempt.

Frequency of assessment was reviewed. All real, personal and operating property subject to property taxation must be assessed annually. Taxable property shall be appraised or indexed annually to reflect current market value. **Mr. Dornfest** went on to explain variations from sale price as indicators of market value. This included farmland, timberland, operating property, and low income Section 42 housing. He displayed a flow chart that showed the Commission's divisions and explained their functions. **Mr. Dornfest** showed charts that displayed taxable value statistics, discussed causes and effects of taxable value changes, property tax myths versus facts, and 2014 property tax use. He talked about personal property legislation main issues that included HB 315, and HB 441, the homeowners exemption, how levy rates are calculated, how to determine property taxes, taxing districts, and tax code areas.

A property tax pie chart indicated that the bulk of tax funds come from primary residences at about 43.8 percent of tax (2014) and schools 30.1 percent (2014).

The 2014 property tax use pie chart showed schools used 30.1 percent, city 26.8 percent, county 26.0 percent, other 10.7 percent, and highway 6.4 percent.

Mr. Dornfest concluded and answered questions from the Committee.

ADJOURNED: There being no further business, the meeting adjourned at 4:55.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Wednesday, February 04, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from January 21, 2015	Senator Bayer
	Approval of Minutes from January 22, 2015	Senator Vick
	Approval of Minutes from January 27, 2015	Senator Werk
RS23371	Relating to Limitation on Eminent Domain for Private Parties	Senator Guthrie
RS23406	Relating to the Port of Lewiston's request to change their reporting period to the State Auditor's office.	Senator Johnson
H27	Relating to recreation districts and property tax	Alan Dornfest
H28	Relating to levy and apportionment of taxes	Alan Dornfest
H29	Relating to exemptions from taxation	Alan Dornfest

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Wednesday, February 04, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators Rice, Vick, Bayer, Guthrie, Werk and Burgoyne

ABSENT/ EXCUSED: Senator McKenzie

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:05 p.m.

MINUTES: **Chairman Siddoway** called for the approval of the Minutes from January 21, 2015, January 22, 2015, and January 27, 2015.

MOTION: **Senator Vick** moved to approve the Minutes of January 22, 2015. **Senator Werk** second the motion. The motion carried by **voice vote**.

MOTION: **Senator Werk** moved to approve the Minutes of January 27, 2015. **Senator Johnson** second the motion. The motion carried by **voice vote**.

RS 23371 **Chairman Siddoway** invited Senator Guthrie to the podium to present **RS 23371**, relating to placing additional limitations on the use of eminent domain. The proposed legislation amends Idaho Code § 7-701A.

Senator Werk asked if this was the same bill that was evaluated last year. **Senator Guthrie** responded that this bill was looked at in 2013.

MOTION: **Senator Rice** moved to print **RS 23371**. **Senator Vick** second the motion. The motion carried by **voice vote**.

RS 23406 **Chairman Siddoway** invited **Senator Johnson** to the podium to present **RS 23406**, relating to the Port of Lewiston's port request to change their reporting period to the State Auditor's office. Idaho Code § 70-1715 currently requires that the annual financial statement of the Port District shall be published in a newspaper printed within the district, and within 45 days of the end of the Port District fiscal year. Given today's reporting standards and requirements, an audited financial statement cannot be prepared or published within 45 days of the end of the Port's fiscal year (June 30th).

The Port is seeking to amend Idaho Code § 70-1715 to reflect the same reporting requirement as Idaho Code § 67-450B, Independent Financial Audit of Local Government Entities filing requirements. This is the filing requirement for Idaho cities, counties and districts.

The Port has reviewed the proposed amendment with the Executive Administrator of Idaho Public Utilities Commission, Nez Perce County Auditor, Nez Perce County Treasurer, and the Idaho Legislative Audits Division. None of these individuals or organizations expressed any concern with the proposed changes.

MOTION: **Senator Werk** moved to print **RS 23406**. **Senator Guthrie** second the motion. The motion carried by **voice vote**.

H 27

Alan Dornfest presented **H 27**, relating to recreation districts and property tax. Current law permits recreation districts that form before June 1 of any year to levy property taxes that same year. They are the only type of taxing districts with this special provision. In all other cases, a district must be formed and have its boundaries clearly identified by January 1 to levy property tax that year. **H 27** takes away this special late formation levying provision and is needed for the following administrative reasons:

1. Recreation districts levy against all taxable property including operating property. This is apportioned to such districts on the basis of miles of lines or tracks within the districts. It is based on identification of the placement of such lines or tracks given maps prepared by the Tax Commission. Availability by that date gives companies time to determine and report mileage necessary to apportion operating property value to each taxing district. Receipt of new boundaries in late May precludes this from happening, except when the recreation district boundaries happen to coincide with those of an existing district. Failure to know how many miles of lines or tracks are within the new recreation district leads to erroneous levies which are likely to be too high on other taxpayers during the first year.
2. In addition, Idaho code § 63-802A requires that all taxing districts notify the county clerk by April 30th each year of the date and location of their budget hearing. With the proposed change in H 27, this would take effect in the following year, which would also be the first year of any levy.

There are 34 levying recreation districts. The Tax Commission was aware of at least one currently in the process of formation. The new law would take effect July 1, 2015. If a new district forms prior to June 1, 2015 it will be able to levy in 2015 based on current law. A district forming later in 2015 would not be able to levy this year regardless of the statutory change. Recreation districts have been authorized by law since 1970. The language permitting late formation was added in 1971. No recreation district currently levies for bonds.

Mr. Dornfest concluded by recommending a do pass.

MOTION:

Senator Werk moved that **H 27** be moved to the floor with a **do pass** recommendation. **Senator Vick** second the motion. The motion carried by **voice vote**.

H 28

Mr. Dornfest presented **H 28**, relating to levy and apportionment of taxes. School district tort funds are used to pay for liability insurance premiums. Property tax was levied to provide revenue for these funds. Growth in the funds is limited to 3 percent per year plus an allowance for new construction within the school district. The new construction based allowance requires the prior year's levy for this fund to be multiplied by new construction value. However, this levy has already been reduced by subtracting both agricultural equipment and personal property replacement money paid by the State to the district. This replacement money is calculated using all school levies. Most were much larger than the tort fund levy. The subtraction results in a very low or nonexistent tort fund levy. This negates the ability of the school district to use new construction in calculating its allowable tort fund maximum.

The issue is partly corrected in current law, which permits any agricultural equipment replacement money to be added back and a hypothetical levy to be used in calculating the next year's new construction related allowable budget increase for the tort fund. **H 28** allows any personal property replacement money to be added back and used for the same calculation. This maintains the principle of having the personal property exemption be neutral with respect to taxing district budgets.

Mr. Dornfest concluded by recommending a do pass.

Senator Johnson asked if by using the hypothetical levy on the spreadsheet, provided a correct assumption, if it was correct to say that the Ag only current law would be the same levy rate for school A and school B? **Mr. Dornfest** indicated that it would be the same levy amount. **Senator Burgoyne** asked what kind of comments were received from the districts about this. **Mr. Dornfest** indicated they have received support from the State Department of Education as well as all the school districts.

MOTION:

Senator Johnson moved that **H 28** be moved to the floor with a **do pass** recommendation. **Senator Werk** second the motion. The motion carried by **voice vote**.

H 29

Mr. Dornfest presented **H 29**, relating to technical corrections of personal property exemption. There were three primary areas that the Tax Commission was recommending change.

Mr. Dornfest reported the word taxpayer will be replaced with person. Legal advice suggested that person was a broader more inclusive term accounting for all types of legal entities and was therefore more appropriate and clearer.

Property owners with more than one property were limited to one \$100,000 exemption per county. Limitation takes affect when owners are in a common enterprise and have one of the listed relationships. This was not a new restriction but rather a clarification. New language deleted reference to that section which has caused confusion in interpretation among county assessors. The new language clarified the types of relationships that are intended. The Tax Commission does not anticipate any substantive differences but feels the changes would enable more consistent determinations of eligibility for the exemption.

Current law provides that money from recovered improperly claimed personal property exemptions be given to taxing districts. Returning the money to the taxing districts would be double dipping. The proposed change returns the money to the State and permanently reduces the shares to be paid by the State to affected taxing districts in future distributions. This would apply to recoveries related to 2013 exemption claims. If the improper exemption were for a more recent year, the money would be returned to the taxing districts. It would not be reflected in State replacement amounts.

The system of determining the amount of exemption to be allowed for operating property companies and public utilities does not match the valuation system in place for these companies. It does not match the way other exemptions are determined for these companies. Current law requires the personal property to be subtracted after apportionment, based on its existence in a particular county or area. The proposed change calculates the value of the exemption as the lesser of \$100,000 times the number of counties in Idaho in which the company is apportioned or the total amount of personal property reported and eligible. This simplifies the calculation and apportionment, enables apportionment to be accomplished without costly computer system revisions, and makes reporting simpler for taxpayers. In addition, it matches the way operating property is valued and the way other exemptions are subtracted from the taxable value of operating property companies. This change will increase the potential exemption applicable to operating property companies by an amount that could translate into about \$300,000 less tax for these companies. There would be no money lost by taxing districts, but the tax

reduction would end up being a tax shift to all other taxpayers. The tax increase on non-eligible properties would be about .19 per \$100,000 in taxable property. This calculation assumed an approximate tax rate of 1 percent.

Mr. Dornfest concluded by recommending a do pass.

Senator Rice asked if the change from using the Internal Revenue Code to using consanguinity within the second degree narrowed the definition. **Mr. Dornfest** replied by confirming that the second degree was being used, and the legal staff could reply as to whether or not this had been researched. **Senator Rice** voiced his concern for checking the code section for the revenue code rather than a handbook, and making sure that it's the one being used so the change that is proposed is one that is intended. **George Brown**, Deputy Attorney General, approached the podium to try and clarify terminology and said he would be able to report back to the Committee after further research on the manner.

MOTION: **Senator Rice** moved that **H 29** be held at the call of the chair. **Senator Burgoyne** second the motion. The motion carried by **voice vote**.

MOTION: **Senator Bayer** moved to approve the Minutes of January 21, 2015. **Senator Rice** second the motion. The motion carried by **voice vote**.

ADJOURNMENT: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:44 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 10, 2015

Please note that the changes made are the presenters

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from January 28, 2015	Senator Burgoyne
	Approval of Minutes from January 29, 2015	Senator Johnson
<u>RS23327C1</u>	Relating to Annexation	Senator Nuxoll
<u>H 34</u>	Relating to the Idaho Administrative Procedure Act	Senator Burgoyne
<u>H 10</u>	Publications	Cynthia Adrian
<u>H 11</u>	Sales tax tech correction	Michael Chakarun
<u>H 12</u>	Sales tax UTV/SOHV	McLean Russell
<u>H 13</u>	Claim of right	Cynthia Adrian
<u>H 36</u>	Retirement benefit	Cynthia Adrian
<u>H 37</u>	Charitable contribution and NOL	Tom Shaner

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 10, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Vice Chairman Johnson, Senators McKenzie, Vick, Bayer, Guthrie and Burgoyne

ABSENT/ EXCUSED: Chairman Siddoway, Senators Rice and Werk

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Vice Chairman Johnson** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:05 p.m.

MINUTES: **Vice Chairman Johnson** called for the approval of the Minutes from January 28, 2015, and January 29, 2015.

MOTION: **Senator Burgoyne** moved to approve the Minutes of January 28, 2015. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

MOTION: **Vice Chairman Johnson** moved to approve the Minutes of January 29, 2015. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

RS 23327C1 **Senator Nuxoll** introduced **Ken Harvey**, from Orofino who presented **RS 23327C1**, relating to annexation. **Mr. Harvey** stated that the purpose of this draft was to amend Chapter 2, Title 50, of Idaho Code, and add a new section 50-221A. **Mr. Harvey** spoke about the existing legislation, how expensive it is for property owners to hire an attorney to fight the city on a disputed annexation, and reported that as of 2013, there were three states in the nation that allowed forced annexation. Those states are Indiana, Tennessee, and Idaho. He testified that in 2014, Tennessee did away with forced annexation, and now Indiana is currently looking at doing the same. **Mr. Harvey** told the Committee that there are 177 Idaho cities with less than 8,000 population. He reiterated that he speaks for every rural citizen who wants to exercise their constitutional right to vote on such an important issue as forced annexation.

Senator Burgoyne commented that although he doesn't suspect he will support this legislation, he believes that the supporters of it deserve to have it heard and therefore he will be voting to have it printed.

MOTION: **Senator Vick** moved to print **RS 23327C1**. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 34

Senator Burgoyne presented **H 34**, relating to the Idaho Administrative Procedure Act. In 2013, Idaho law required that the Tax Commission (Commission) include in its notices of proposed rulemaking a description of negative fiscal impacts of more than \$10,000 to the General Fund and other funds. H 202 (2013) did not change that requirement but added the requirement that the Commission include in its proposed rule making notices a description of positive fiscal impacts as well. The purpose of this changes was to ensure that the public and the Legislature would know if a proposed rule had the effect of raising more than \$10,000 in additional revenue. At the request of the Commission, H 202 had a two year sunset clause taking effect on June 30, 2015. Now that the Commission has had experience with H 202, it does not object to the removal of the sunset clause, and this bill's sole provision is to repeal it.

Vice Chairman Johnson asked if the purpose of this act in its entirety is to repeal the provision. **Senator Burgoyne** clarified that **H 34** is the repealer, and H 202, from the 2013 Session, contains the sunset clause that will have no action taken.

MOTION:

Senator McKenzie moved to approve **H 34** with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 10

Cynthia Adrian, Idaho State Tax Commission Tax Policy Specialist, presented **H 10**, relating to publications. **H 10** modifies Idaho Code § 63-3039 to reflect current practice. Idaho Code § 63-3039 requires the Commission to publish the Income Tax Act, amendments to the Act, and rules in effect in pamphlet form. Requirements also provide for the sale of the pamphlet at a price not to exceed the cost of printing plus the actual cost of postage and handling. The Commission has not published the pamphlet in paper form for many years. The Income Tax Act and related rules are available to the public via the internet at no cost. This makes the requirement to publish paper documents no longer necessary. This bill amends the statute to reflect current practice. If someone doesn't have Internet service and requests a copy, it will be provided.

Senator Burgoyne asked what the cost was avoided by not printing these materials. **Ms. Adrian** replied that since this had not been published for many years she didn't have a number to share. **Senator Bayer** asked if given the current provisions those practices within recent years matched up with current statutory provisions. **Ms. Adrian** stated that the current practice of the Commission was that they do not print anything, and if there is someone that does not have internet access the Commission will print it and send it to the taxpayer at a small price. She reported that she didn't believe the Commission's current practices were in sync with statutory requirements, and that was why this bill was being presented. **Senator Vick** asked how the Commission went about the process of deciding not to print and what the ramifications might be if the Commission was no longer following the law. **Ms. Adrian** replied she did not know the answer but reiterated what the Commission was asking for in order to comply with the law.

MOTION:

Senator Guthrie moved to approve **H 10** with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

H 11

Michael Chakarun, Idaho State Tax Commission Tax Policy Manager, presented **H 11**, relating to a sales tax tech correction. **H 11** makes a technical correction to the Sales Tax Act. In § 63-3622J it provides an exemption from sales tax for the sale of nutritional meals provided by programs to senior citizens under the federal Older Americans Act. The current reference to this Act is incorrect and no longer valid. This bill updates § 63-3622J to provide the proper cross reference to Title III of the Older Americans Act, PL 109-365. This change does not affect the underlying program, and the bill has no fiscal effect.

MOTION: **Senator Bayer** moved to approve **H 11** with a **do pass** recommendation. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

H 12 **McLean Russell**, Idaho State Tax Commission Tax Policy Specialist, presented **H 12**, pro-taxpayer legislation intended to correct an irregularity in the Sales Tax Act relating to sales of certain off-highway vehicles to non-residents. Under current law, if a dealer in Idaho sells an ATV to a nonresident and the nonresident takes the ATV to another state where they are required to provide licenses, register, and title to the ATV, the dealer was not required to collect sales tax on the transaction. Sales of most other off-road vehicles receive the same exemption. However, if that vehicle is a UTV or a specialty off-highway vehicle, then sales tax owed on that transaction because they were not exempt by statute. This odd line has been confusing for dealers to administer and purchasers to understand. For the dealer, there's the additional problem that they are held liable if they do not collect sales tax on a taxable sale of a UTV to a nonresident. No policy reason exists for the different tax treatment. **H 12** would treat UTVs and SOHVs the same as ATVs and other off-road vehicles. The fiscal note is a negative \$200,000 impact to the General Fund.

Senator Burgoyne wondered if the fiscal impact might be less. He asked when sales tax was due in the other state, if there was some sort of credit back arrangement against the Idaho sales tax between the states or not. **Mr. Russell** replied that there was no such arrangement.

Vice Chairman Johnson asked if the owner was required to keep the vehicle in the state that it was titled in for a minimum number of days before bringing it back to Idaho and titling it in Idaho. **Mr. McLean** replied that the new resident exemption would apply as long it has been 90 days, pending investigation by the Commission.

MOTION: **Senator Vick** moved to approve **H 12** with a **do pass** recommendation. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

H 13 **Cynthia Adrian** presented **H 13**, relating to claim of right. **HB 13** was beneficial to the taxpayer and modifies Idaho Code § 63-3022F and adds § 63-3029F to allow a refundable credit for claim of right income repayment. A claim of right is when a taxpayer reported income as being taxable in one year, but then has to repay it back in a future tax year. **Ms. Adrian** gave an example of a person that received disability insurance payments that are taxable while contesting a denial of a Social Security disability claim. The taxpayer included the disability insurance payments as income in the year received. If the taxpayer prevails with Social Security and receives a retroactive payment from Social Security in a subsequent year, he would then repay the insurance company for the disability payments received in a prior year. The Social Security income the taxpayer received was not included in Idaho taxable income, but the taxpayer has already paid tax on the disability insurance payments he received in the earlier year and had to repay. In this situation, the taxpayer can take a federal deduction for the amount repaid. Current Idaho statute allows for a deduction when a federal deduction was taken, but in some situations the taxpayer may not have Idaho taxable income in the year of repayment to use the deduction. The result is payment of tax on benefits that were repaid. This bill allows for a refundable credit for the difference between the Idaho state income tax liability for the year the income was included in taxable income and the Idaho state income tax that would have been paid had the income not been included in taxable income.

MOTION: **Senator Burgoyne** moved to approve **H 13** with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 36

Cynthia Adrian presented **H 36**, relating to retirement benefits. **H 36** modifies Idaho Code § 63-3022A to expand the retirement benefits deduction to include workers covered under the Foreign Service Retirement and Disability System (FSRDS) as well as employees receiving benefits under the offset programs for the Civil Service Retirement System (CSRS) and the Foreign Service Retirement and Disability System. CSRS was a specific retirement plan that exempted the participants from paying FICA taxes. When § 63-3022A was added to Idaho Code, Civil Service Retirement members were allowed the retirement benefits deduction. This put those retirees on the same footing as individuals who receive Social Security benefits. There was also a retirement plan for Foreign Service employees, the Foreign Service Retirement and Disability System (FSRDS), that operated similarly to the CSRS plan. The similarity was that these employees did not pay into social security. Employees have been excluded from claiming the Idaho retirement benefits deduction, making those benefits taxable. Idaho Code § 63-3022A specifically allows the retirement benefits deduction to retired civil service employees and not employees covered under FSRDS. This bill modifies Idaho Code § 63-3022A to allow the deduction to these employees as well if they were not covered under Social Security. It clarifies who does and does not qualify. The bill modifies the code to allow the deduction to employees receiving retirement benefits from the offset programs of both of these systems.

MOTION:

Senator Burgoyne moved to approve **H 36** with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 37

Tom Shaner, Idaho State Tax Commission Tax Policy Specialist, presented **H 37** relating to charitable contribution and net operating loss. **H 37** corrects an inequity in which some taxpayers find themselves. This applies to both individuals and corporations. On federal income tax returns, charitable contributions are limited to a percentage of federal taxable income. The excess is carried over for up to five years. The charitable contribution limitations and carryover rules are more restrictive than the net operating loss rules. If the taxpayer is in a net operating loss situation and therefore unable to use some of their contributions because of the limitations, the excess contributions are converted to net operating loss on the federal return. Under current Idaho law, the subsequent year the contributions carryover is reduced by the amount that was converted to net operating loss. Idaho does not use the federal net operating loss. Without this bill that amount of converted contribution is lost for Idaho income tax purposes. This bill allows the taxpayer to take a deduction in the amount of converted contributions. The fiscal impact was estimated to be a loss to the General Fund of \$25,000. There is an emergency clause that would allow an effective date of January 1, 2014, so taxpayers can use this in the current filing season.

MOTION:

Senator Guthrie moved to approve **H 37** with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Vice Chairman Johnson** adjourned the meeting at 3:40 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #2
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 12, 2015

SUBJECT	DESCRIPTION	PRESENTER
<u>S 1045</u>	Relating to port districts revising requirements for audits of port districts and to make a technical correction	Senator Johnson
<u>RS23621</u>	Relating to annexation	Senator Nuxoll
<u>H 42</u>	Relating to revising provisions regarding gasoline tax refund procedures and to make technical corrections	Michael Chakarun
<u>H 77</u>	Relating to conforming to the internal revenue code in effect January 1, 2015	Michael Chakarun
<u>RS23567</u>	Consistency in knife regulations	Senator Heider

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Werk
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
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MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 12, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie, Werk and Burgoyne

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:05 p.m.

Chairman Siddoway invited Vice Chairman Johnson to the podium to present **S 1045**.

S 1045 **Vice Chairman Johnson** conducted a teleconference with David Doeringsfeld, Manager of the Port of Lewiston. **Mr. Doeringsfeld** presented **S 1045** relating to the Port of Lewiston's (Port) request to change its reporting period to the State Auditor's office. Idaho Code § 70-1715 currently requires that the annual financial statement of the Port District shall be published in a newspaper printed within the district and within 45 days of the end of the Port District fiscal year. Given today's reporting standards and requirements, an audited financial statement cannot be prepared or published within 45 days of the end of the Port's fiscal year (June 30th).

The Port is seeking to amend Idaho Code § 70-1715 to reflect the same reporting requirement as Idaho Code § 67-450B, Independent Financial Audit of Local Government Entities Filing Requirements. This is the filing requirement for Idaho cities, counties and districts.

Mr. Doeringsfeld reported that they are still operating under what was originally proposed in 1963 and has never been updated.

The Port has reviewed the proposed amendment with the Executive Administrator of Idaho Public Utilities Commission, Nez Perce County Auditor, Nez Perce County Treasurer, and the Idaho Legislative Audits Division. None of these individuals or organizations expressed any concern with the proposed changes.

Mr. Doeringsfeld asked the Committee for a do pass recommendation.

MOTION: **Senator Vick** moved to approve **S 1045** with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

RS 23621 **Senator Nuxoll** presented **RS 23621** and reported that the Secretary of State found a couple of errors in the bill previously presented. **Senator McKenzie** inquired if **RS 23621** was essentially what Senator Nuxoll had presented on February 10, 2015 except with a few corrections. **Senator Nuxoll** said that was correct.

MOTION: **Senator McKenzie** moved to print **RS 23621**. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

H 42

Mike Chakarun, Idaho State Tax Commission (ITC) Tax Policy Manager, presented **H 42**, relating to motor fuel refunds. This bill clarifies the procedures taxpayers need to follow when filing for a motor fuel tax refund. Current law allows the taxpayer to file refund claims during the year or claim a refund on their annual income tax return. If the taxpayer files one or more refund claim during the year, they must attach a reconciliation to the annual income tax return.

The bill:

1. Drops the reconciliation requirement. No need to place this burden on taxpayers. The ITC has procedures in place to prevent duplicate payments.
2. Clarifies that this is a refundable credit against income tax due.
3. Allows a taxpayer to file refund claims during the year for a period no greater than one year or less than one month.

The bill clarifies for taxpayers that are not required to file an annual income tax return that they can file a refund claim for a period no greater than one year or less than one month. **H 42** makes technical corrections changing "shall" to "will" and adding "state" before tax commission in several places. The bill has no effect on state revenues.

Senator Burgoyne asked about the opposition to this bill in the House and wondered about the nature of the opposition. **Mr. Chakarun** replied that he was not aware of any and couldn't report.

MOTION:

Senator Johnson moved to approve **H 42** with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

H 77

Mike Chakarun presented **H 77** which is the annual update to references to the Internal Revenue Code (IRC). It conforms the Idaho income tax statutes to the IRC in effect on January 1, 2015. The Idaho Income Tax Act uses the federal Internal Revenue Code as the starting point to determine Idaho taxable income. A taxpayer takes federal adjusted gross income from Form 1040, line 37, and enters it on line 7 of Idaho Form 40. The taxpayer modifies that number based on additions and subtractions specified by Idaho tax law to determining Idaho taxable income. Using the IRC as the base, it relieves the Legislature from the need to create and maintain a stand-alone tax code. Other benefits include simplifying tax preparation and facilitating tax administration. This is an important bill for taxpayers and tax professionals as it provides certainty as to which version of the IRC they need to follow when preparing Idaho returns. The bill has a negative fiscal note of \$10.6 million for FY 2015 and a negative fiscal note of \$7.1 million in FY 2016. A total of \$17.7 million. The Section 179 deduction carried the negative fiscal note. The tax extender bill passed by Congress last year set the Section 179 deduction at \$500,000. It was scheduled to drop \$25,000 per year.

Senator McKenzie asked why a negative impact is shown since conforming is done every year. **Mr. Chakarun** reported that the number used currently is not the same as before. **Senator McKenzie** expressed his understanding that there may be conflict with this provision and the Ninth Circuit Court. He asked if there were any issues that could arise with the current limitations by the Ninth Circuit Court on application under state law. **Mr. Chakarun** answered by saying no, it's not currently in force. **Chairman Siddoway** voiced his concern and questioned if the federal guidelines would be in conflict with what is being passed in Idaho Code. **Senator Guthrie** asked if his understanding was correct in saying that the money is more of a reconciliation based on an estimate with the final numbers coming in. **Mr. Chakarun** explained how conformity works and that the ITC is following old federal law based on 2014 code where this section is expired for Idaho purposes. The ITC is having to change statute to conform as well as the negative fiscal note. **Senator**

Burgoyne asked if the ITC has notified the general public of the change in position given this provision remains on the books. **Mr. Chakarun** replied yes they have.

MOTION: **Senator Rice** moved to approve **H 77** with a **do pass** recommendation. **Senator Werk** seconded the motion. The motion carried by **voice vote**.

RS 23567 **Senator Heider**, the Senate Representative to the Congressional Sportsman Caucus, presented **RS 23567**, which says no city, county or other political subdivision shall enact any ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration or use of a knife or knife making components in the State. The Congressional Sportsman are basically saying that people in the State of Idaho have the right to use a knife without restriction.

Senator Burgoyne asked if the list was regulated by the State or local entities and if Idaho had a problem with how knives are used throughout the State. **Senator Heider** replied there was not an issue in Idaho. **Senator Burgoyne** asked whether a school district would be a political subdivision within the scope of this legislation. **Senator Heider** said he didn't know whether or not a school district would be. **Senator McKenzie**, reiterated that Idaho has state laws that prohibit carrying concealed weapons.

MOTION: **Senator McKenzie** moved to print **RS 23567**. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:35 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 17, 2015

SUBJECT	DESCRIPTION	PRESENTER
S 1044	Relating to additional restrictions on the use of eminent domain and to make technical corrections	Senator Guthrie
HCR 4	Rejects Rules 102 and 128 of the Idaho State Tax Commission.	Representative Collins
Presentation	Review of Sales Tax Exemption for Western Air	Russell Westerberg Jeff Mihalic

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 17, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie and Burgoyne

ABSENT/ EXCUSED: All present, with a vacancy in District 17.

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:02 p.m.

S 1044 **Senator Guthrie** presented **S 1044**, relating to additional restrictions on the use of eminent domain and to make technical corrections. He reported that **S 1044** seeks to amend Idaho Code § 7-701A and proposes to add an additional exemption which would exclude takings for trails, paths, greenways or other ways for walking, running, hiking, bicycling or equestrian use, unless adjacent to a highway, road or street. **Senator Guthrie** gave some history and issues relating to eminent domain. contended that the state is the local jurisdiction and just as with the efforts of § 7-701A. He said the decision about when eminent domain is appropriate is a decision left to states. He cited examples of why the need for **S 1044** and stated it was not an anti-greenway issue, it was a private property issue.

Senator Burgoyne asked if the proposed amendment was to completely do away with eminent domain for the purpose of trails, etc. or only where the condemnation action will result in that land being conveyed to a private party. **Senator Guthrie** said his understanding was when these takings occur they are transferred to a private property. **Senator Burgoyne** inquired with respect to the act of condemnation and the ultimate conveyance to a private party, where do urban renewal districts fall in this legislation; are they regarded as private parties or are they regarded as governmental entities? **Senator Guthrie** responded you could have both.

TESTIMONY: Much discussion ensued regarding **S 1044** and speaking in opposition were: **Jay Gibens**, City of Meridian Pathways Project Manager, said he would like to have eminent domain left in place when easements don't work to purchase land for city pathways.

David McGuire, Pocatello, stated that the city of Pocatello refused to use eminent domain and pursues voluntary agreements with property owners.

Cynthia Gibson, Idaho Walk Bike Alliance, said pedestrian and bike paths provide safe corridors allowing commuters access to work, providing people access to shopping and dining, and offering recreational activities.

Bill Gigray III, President of FACTS, commented Idahoans place a high level of trust in their elected officials to use condemnation authority sparingly and when no other alternatives exist.

Kent Goldthorp, Meridian City Parks and Recreation, stated that Meridian has rarely used eminent domain in bicycle and pedestrian paths. The Committee should trust the local elected officials to know the best interest of their communities.

Meghan Conrad, RAI attorney, stated a letter was sent to each Committee member, and she stands behind that letter (see attachment 1).

Geoff Schroeder, Elmore County Republican Party Chair and Mountain Home City Council, said greenways are transportation routes, and this bill is not necessary.

John Evans, Mayor of Garden City, said condemnation has rarely been used for pedestrian and bicycle facilities. A homeowner's association asked Garden City to use eminent domain to acquire property for a greenbelt bridge across the Boise River as an alternative to avoid restrictive covenants placed on the disposal of commonly owned property.

Brent Orton, Director of Public Works, City of Caldwell, reported the cost of condemnation was expensive.

Scot Oliver, Idaho Smart Growth, referred to the letter he sent to the Committee (see attachment 2).

Elaine Clegg, Boise City Council Member, stated that eminent domain was used early in the development of the Boise River Greenbelt and played a key role in bringing the greenbelt to fruition. Today, the Boise River Greenbelt is the gem of Boise's nationally recognized park and trail system, estimated to carry 65,000 trips per year.

Holly Cook, Caldwell Mayor's office, commented that communities throughout Idaho have created greenbelts. They are valuable amenities and economic development tools that attract new businesses, homeowners, and tourists to communities.

Seth Grigg, Association of Idaho Cities, stated that in the interest of time he turned in written testimony to the Committee (see attachment 3).

**UNANIMOUS
CONSENT
REQUEST:**

Senator McKenzie asked for unanimous consent to have **HCR 4** moved to a different agenda due to Representative Collins having a meeting to attend. There were no objections.

TESTIMONY:

Speaking in favor of **S 1044**:

- Russ Hendricks, Idaho Farm Bureau, said the Idaho Farm Bureau supports the bill. He stated the Idaho Constitution authorized the creation of counties and cities. It is for the State to determine how and when cities or counties may use eminent domain.
- Trent Clark, Monsanto Company and Secretary of American Property Rights Alliance, commented jogging paths and bike trails do not need to be in any particular location to be functional. To say they must run through a particular person's property is only a pretext to confiscate the property for the use of others. He also stated a purpose of the government is to protect rights.

Senator Guthrie concluded saying private property rights are something he cares about, and **S 1044** seeks to protect those rights guaranteed in the Idaho Constitution.

MOTION:

Senator Vick moved that **S 1044** be sent to the floor with a **do pass** recommendation. **Senator Rice** seconded the motion.

**SUBSTITUTE
MOTION:**

Senator Burgoyne moved to send **S 1044** to the 14th Order, for amendment. **Senator McKenzie** seconded the motion. The motion failed.

VOICE VOTE:

The original motion carried by **voice vote**. **Senators Burgoyne, McKenzie, and Johnson** requested that they be recorded as voting nay.

PRESENTATION: **Chairman Siddoway** introduced Russell Westerberg, Owner at Westerberg & Associates, and Jeff Mihalic, President of Western Aircraft.

Mr. Mihalic introduced himself and gave a presentation about the current status of Western Aircraft. He reported the progress of Western Aircraft since the sales tax exemption, H 417, was passed in 2012. He spoke about tax impact, expansion, competition, projected job growth, repair stations, results, growth drivers, and Western's master plan.

Mr. Mihalic concluded by asking the tax exemption be reauthorized by the Idaho Legislature before its expiration on June 30, 2016.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 5:30 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

ELAM & BURKE
ATTORNEYS AT LAW

RYAN P. ARMBRUSTER

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Post Office Box 1539
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E-mail rpa@elamburke.com

February 17, 2015

VIA EMAIL

Senate Local Government and Taxation Committee
The Honorable Jeff Siddoway, Chairman
Room WW53
Boise, ID 83702-0038

RE: Redevelopment Association of Idaho, Inc.'s Response to SB1044

Dear Chairman Siddoway:

Elam & Burke, P.A. represents the Redevelopment Association of Idaho, Inc. (RAI). The members of RAI include a majority of the urban renewal/redevelopment agencies in the State. The RAI was formed for the purpose of, and is committed to, facilitation of communication between and among Idaho redevelopment practitioners, education and encouragement of best practices in the redevelopment enterprise, facilitation of compliance with applicable state laws, and improvement of accountability and advancement of the effectiveness of the redevelopment tool. Since RAI's incorporation in late-2010, the RAI has regularly advised and updated its membership as to all changes to the urban renewal laws and/or laws impacting urban renewal agencies. The RAI also has had the opportunity to assist representatives of the Idaho State Tax Commission with the collection of data. The RAI works closely with representatives of the Association of Idaho Cities.

The RAI has reviewed and analyzed SB1044, which seeks to prohibit state and local governments from exercising eminent domain authority to acquire property "for trails, paths, greenways or other ways for walking, running, hiking, bicycling or equestrian use, unless adjacent to a highway, road or street." This further restriction of local government authority could negatively impact communities and is unnecessary. As a result, the RAI respectfully requests you **hold SB1044 in Committee**.

The proposed amendment revises Idaho Code § 7-701A, which sets forth limitations on the use of eminent domain to condemn property in order to convey such property to a private interest for economic development. Use of eminent domain authority to acquire property for public pathways is reasonable and contemplated by the grant of general eminent domain authority in Idaho Code § 7-701 as well as specific authority granted urban renewal agencies in the Idaho Urban Renewal Law of 1965, specifically, Idaho Code § 50-2010.

It is unclear what issue this bill seeks to resolve. Local governments have used their eminent domain authority sparingly, and oftentimes, the request to use eminent domain comes at

February 17, 2015

Page 2

the request of the property owner to allow the property owner to benefit from certain provisions under the Internal Revenue Code. Without eminent domain, property owners can hold community projects hostage and demand sales prices in excess of fair market value, which ultimately has an impact on the taxpayer.

Certainly communities benefit from connective pathways that encourage recreation and increase the walkability and beautification of cities and counties. Such pathways encourage alternative forms of transportation beyond motor vehicles, which has a direct impact on the health of a community.

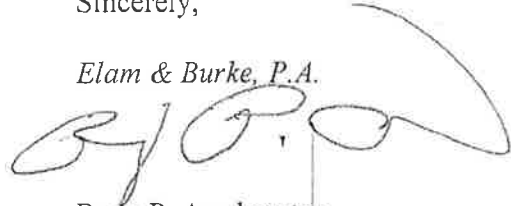
As many pathways are adjacent to a waterway, not a roadway, the exception would almost never apply. Pathways that do not follow roadways are often more safe for bicyclists and others than roadside lanes and sidewalks.

Based on the foregoing, the RAI respectfully requests you **hold SB1044 in Committee.**

Please feel free to contact me should you have any further questions or concerns.

Sincerely,

Elam & Burke, P.A.

A handwritten signature in black ink, appearing to read 'Ryan P. Armbruster', is written over a horizontal line.

Ryan P. Armbruster
Counsel to the
Redevelopment Association of Idaho, Inc.

cc: The Honorable Dan Johnson, Vice Chairman
The Honorable Curt McKenzie
The Honorable Jim Rice
The Honorable Steve Vick
The Honorable Clifford Bayer
The Honorable Jim Guthrie
The Honorable Elliot Werk
The Honorable Grant Burgoyne
Mandy McLennan, Secretary



Senate Local Government and Taxation Committee
sloc@senate.idaho.gov

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Sherry McKibben
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Program Coordinator

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910 Main Street, Ste. 314
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te@idahosmartgrowth.org
www.idahosmartgrowth.org

February 16, 2015

Dear Members of the Committee:

We are writing in opposition to Senate Bill 1044 to restrict a community's use of eminent domain to acquire private property "for trails, paths, greenways or other ways for walking, running, hiking, bicycling or equestrian use." This bill appears to signal to Idaho communities that the Legislature knows better than the communities themselves what is good for them.

Eminent domain can be used in Idaho to acquire private property for a multitude of public uses, including buildings and grounds, transportation, irrigation, utilities, sewers and cemeteries, among others. In practice, the use of eminent domain to condemn private property is extremely rare, as elected officials are very reluctant to employ it, preferring instead to acquire property for public uses through voluntary purchase or donation. However, having the tool available to a community can help it accomplish major public projects fairly and in a timely manner. If a community makes a strong case that private property is needed for a particular public benefit, most affected property owners will agree to negotiate and sell at the fair market value for the good of their community. Having eminent domain available as a tool simply prevents a few property owners from exacting an undue gain at the expense of all taxpayers.

Eminent domain is rare and its use for greenways is almost nonexistent, yet there are still important reasons to oppose this bill. A community could decide that a greenway is in the public interest on a number of counts: improved citizen health and safety, better transportation network connectivity, increased economic benefits and ecosystem values are a few. An individual community may find a compelling need that hasn't been identified yet. A greenway could be bundled with other public benefits, such as a sewer or utility corridor. Eliminating one purpose of the eminent domain tool could have unintended consequences on others.

Public benefits of greenways are well researched. In Boise, the "Open Land Utility" study of 2012 determined that open space conservation generated \$11.8 million in economic activity in 2011; of that amount \$2.2 million was generated by the use of trails. The Boise foothills contain 130

Bringing people together to create great places to live.

miles of trails resulting in an economic impact of nearly \$17,000 per mile.

Paved multiuse trails can provide a far greater economic benefit. The "Trail of the Coeur d'Alenes" generates \$200,000 per mile per year, for a total \$14 million annual impact to the region.

Property values generally increase with proximity to greenways, up to 20% more with adjacency. The linear nature of greenways, as opposed to most public open space, means that there are likely to be a higher number of adjacent properties, and thus more property owners who are likely to see increases in their property values.

There is no state benefit to this bill. The statute clearly identifies transportation as a use for which eminent domain applies. Why should the state pre-empt a community's determination that walking and biking are important transportation modes? We are not persuaded that under the existing statute private property rights would be easily abrogated. A nightmare scenario in which a jurisdiction in Idaho would run amuck with eminent domain over private land is highly unlikely, and there are checks in place to prevent it. In any case, a rogue body creating pathways is probably the least of that community's worries.

The main reason to stop this bill is fairness. Fairness allows communities to determine their own identities and lets their local leaders make those decisions that really matter to their constituents.

We urge you to vote against Senate Bill 1044.

Sincerely,

A handwritten signature in dark ink, appearing to read "Scot Oliver", written in a cursive style.

Scot Oliver
Executive Director



Association of Idaho Cities
 3100 South Vista, Suite 310, Boise, Idaho 83705
 Telephone (208) 344-8594
 Fax (208) 344-8677
www.idahocities.org

To: Members of the Senate Local Government and Taxation Committee
 From: Seth Grigg, Executive Director
 Date: February 17, 2015
 Re: AIC Opposes Senate Bill 1044

The Association of Idaho Cities (AIC) appreciates the opportunity to share our concerns about Senate Bill 1044 and respectfully request that **S1044 be held in committee.**

Senate Bill 1044 is a solution in search of a problem. The City of Pocatello has been clear and consistent in refusing to use eminent domain and continues to pursue voluntary agreements with property owners to complete disconnected segments of the Portneuf Greenway. In other areas of the state, condemnation has rarely been used for pedestrian and bicycle facilities. Based on AIC's research, cities have only used eminent domain a few times for pedestrian and bicycle facilities:

- Eminent domain was used early on in the development of the Boise River greenbelt and played a key role in bringing to greenbelt to fruition. Today the Boise River greenbelt is the gem of Boise's nationally recognized park and trail system, estimated to carry 65,000 trips per year.
- A couple of years ago, Garden City was requested to use eminent domain by a homeowner's association to acquire property for a greenbelt bridge across the Boise River as an alternative to avoid restrictive covenants placed on the disposal of commonly owned property.
- The City of Eagle filed a widely reported condemnation action in April 2014 over a path next to the Laguna point subdivision, but settled with the property owners and the action never went to court.

Communities throughout Idaho have created **greenbelts** because they **are valuable amenities and economic development tools** that attract new businesses, homeowners, and tourists to our communities. The sponsor of the legislation argues that bicycle and pedestrian facilities are nice, but not truly essential in the same way that streets and roads are. To the contrary, **pedestrian and bike paths provide safe corridors that help children get to school, allow commuters access to work, provide people access to shopping and dining, and offer recreational activities.**

Eminent domain is a process that serves to protect the interests of property owners, ensuring they receive fair market value for their land. There are also tax advantages associated with eminent domain – property owners don't pay capital gains tax if the proceeds are reinvested in the same type of property.

Lastly, **Idahoans place a high level of trust in their elected** officials to use condemnation authority sparingly and in only when no other alternatives exist. Although cities and counties are granted broad powers of eminent domain, local elected officials have a single-minded aversion to using it that demonstrates the deep respect for private property rights that is a part of Idaho's political culture. Given how rarely eminent domain has been used for bicycle and pedestrian facilities and the deep respect our elected officials have for this authority, we should trust local elected officials who are ultimately accountable to their constituents to act in the best interests of their communities.

AMENDED AGENDA #2
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 19, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from February 4, 2015	Senator Rice
Unanimous Consent to Send RS 23618 to the Senate State Affairs Committee for Print	Relating to consolidation of forms	Cynthia Adrian
<u>H 29</u>	Relating to technical corrections of personal property exemption	Alan Dornfest
<u>H 76</u>	Relating to tax levies and school emergency fund levy	Representative Clark Kauffman
<u>H 85</u>	Relating to deduction of capital gains	Robert L. Aldridge
PAGE GRADUATION:	Haley Fronk, Graduating Page	Senator Siddoway

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 19, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie and Burgoyne

ABSENT/ EXCUSED: All present, with a vacancy in District 17.

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:01 p.m.

RS 23618: **Cynthia Adrian** presented **RS 23618** and reported it proposes to modify Idaho Code § 63-3067A removing the requirement to include the donations to trust accounts on a "conspicuous portion of the principal individual income tax form". This information is displayed on Forms 40 and 43. The amount of information required on the individual income tax forms, space is very limited. Font size on the current forms is at 8 points and is difficult to read. **RS 23618** would allow flexibility to move the donation information making it possible to increase font size on the forms and improve readability for the taxpayer. Idaho Code § 63-3067C provides sunset provisions for the trust accounts listed in Idaho Code § 63-3067A. These two accounts are being removed because they no longer meet the requirements. **RS 23618** repeals Idaho Code § 63-3067B, it contained the same information as Idaho Code § 63-3067A, and removes all references to the code section that is being deleted.

UC REQUEST: **Chairman Siddoway** asked for unanimous consent to send **RS 23618** to the Senate State Affairs Committee to print. There were no objections.

H 29: **Alan Dornfest** presented amended **H 29**, relating to technical corrections of personal property exemption in which the Tax Commission was recommending change in three areas. **Mr. Dornfest** gave background on **H 29** before reporting that the concern about using the substitution of the term "consanguinity" for IRS Code 267 had been addressed and reviewed by legal staff. The recommendation was made in the amendment stating a return to original language. **Mr. Dornfest** concluded by asking the Committee to accept the amended version of **H 29**.

MOTION: **Senator Guthrie** moved to send **H 29** to the 14th Order for amendment. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

MINUTES: **Chairman Siddoway** called for the approval of the Minutes from February 4, 2015.

MOTION: **Senator Rice** moved to approve the Minutes of February 4, 2015. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

H 76: **Representative Clark Kauffman** presented **H 76**, relating to tax levies and the school emergency fund levy. He reported the purpose of this legislation is to include emergency school levies in Idaho Code § 50-2908 (f). This section allows the levy to be assessed on the current equalized valuation of taxable property instead of the base assessment roll. Property tax paid for school emergency levies will go to the school district instead of the urban renewal agencies. This affects school districts that have an urban renewal district in their school district.

Phil Homer, Idaho School Board Association, spoke in support of **H 76**. He stated **H 76** was a good companion to H 470 when bond levies, supplemental levies, and plant facility levies were protected.

Senator Burgoyne asked Mr. Homer about the position of the urban renewal districts. **Mr. Homer** said that he had not spoken to any of them. **Representative Kauffman** clarified the urban renewal districts had been contacted and that they felt glad to have received money.

MOTION: **Senator Rice** moved to approve **H 76** with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 85: **Robert L. Aldridge**, Chartered Attorney at Law, presented **H 85**. He reported **H 85** is about the income tax treatment of gains on sales of certain tangible capital assets. He explained there are times when the entity may want to distribute an asset to a partner instead of selling the property and distributing the proceeds. **Mr. Aldridge** noted **H 85** removes any distinction between distributions to an ongoing partner versus liquidating distributions to partners leaving a partnership. **H 85** clarifies the treatment to match what appears to have been the original intent of the Legislature in this statute. He said that **H 85** would have little or no fiscal impact.

Chairman Siddoway asked about dates of qualification. **Mr. Aldridge** replied the tax year would begin on or after the effective date of the legislation and that there would be an option to do a short year on the first time and then convert to a calendar year.

Senator Rice asked about the fiscal impact of **H 85** and voiced his concern that there would be a high probability of a fiscal impact to the General Fund. **Mr. Aldridge** replied there was inquiry about the fiscal impact language and there was no objection. **Senator Rice** asked which section of the code liquidating and non-liquidating distributions fall under. **Mr. Aldridge** said he could not speak to that question, but it was possible the Tax Commission could.

Senator Burgoyne asked, with respect to tacking, whether an entity status could drive the outcome and how far in advance of liquidation would a C corporation have to become an S corporation, an LLC, or a partnership in order to take advantage of the bill. **Mr. Aldridge** replied that the conversion from a C to an S corporation is complicated, and what is being looked at is the holding period of the entity. This is designed to cover for when the entity itself doesn't want to sell and then hand out the proceeds. The partner may see it as a good long term investment therefore wanting the asset rather than proceeds of the investment. He stated he doesn't believe that particular situation would drive the choice of entity.

MOTION: **Senator Burgoyne** moved to approve **H 85** with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

PAGE GRADUATION: **Chairman Siddoway** called Page Haley Fronk to the podium and presented her with an Idaho State watch, Capitol sweatshirt, a letter of recommendation, and a letter of appreciation signed by all the Committee members. **Ms. Fronk** spoke about her experiences having a positive impact for her, how she has enjoyed going to work every day, and that being a page has been a life changing event for her.

ADJOURNMENT: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:49 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, February 24, 2015

SUBJECT	DESCRIPTION	PRESENTER
INTRODUCTION	Page: Nolan Cole	Senator Siddoway
MINUTES	Approval of Minutes from February 10, 2015	Senator McKenzie
HCR 4	Rejects Rules 102 and 128 of the Idaho State Tax Commission	Representative Collins
S 1093	Relating to annexation	Senator Nuxoll

If you have written testimony, please provide a copy of it to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, February 24, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie and Burgoyne

ABSENT/ EXCUSED: All present, with a vacancy in District 17.

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:03 p.m.

PAGE INTRODUCTION: **Chairman Siddoway** introduced the Committee Page, Nolan Cole and invited him to the podium to tell the Committee about himself.

MINUTES: **Chairman Siddoway** called for the approval of the Minutes from February 10, 2015.

APPROVAL: **Senator McKenzie** moved to approve the Minutes of February 10, 2015. **Vice Chairman Johnson** seconded the motion. The motion carried by **voice vote**.

HCR 4: **Representative Collins** presented **HCR 4**. This Concurrent Resolution rejects Rules 102 and 128 of the Idaho State Tax Commission (Commission). Rule 102 relates to the sales tax exemption for logging, and Rule 128 relates to lodging sales tax exemptions. Both rules were part of **Docket No. 35-0102-1403**. Rule 102 is an amendment to clarify that materials and equipment used on a tree farm for a purpose other than harvesting can qualify under the production exemption but not the logging exemption. This rule was part of the negotiated rule making process, and two public meetings were held as well as outreach to several logging contractors; no concerns were expressed. Rule 128 is an amendment to require exempt organizations to use a specific form for claiming an exemption on purchases of lodging accommodations when a qualifying credit card is used. This amendment requires that additional documentation be collected by lodging establishments to ensure the exemption is properly claimed.

MOTION: **Senator Rice** moved to send **HCR 4** to the floor with a **do pass** recommendation. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

S 1093 **Senator Nuxoll** invited Ken Harvey, a rural county citizen, to present **S 1093**. **Mr. Harvey** reported this bill is an amendment to Idaho Code § 50-222 and 50-221A, stating if more than 25 percent of land owners in cities of less than 8,000 people file a written protest then an election shall be held. This bill is applicable when a city wants to annex less than 99 privately owned parcels.

TESTIMONY: Much discussion ensued regarding **S 1093** and speaking in favor were:

Fonda Jovick, an attorney with Lake City Law Group, stated if a rural city followed through the necessary procedures of the statute, there is no opportunity for citizens to have a voice in the process. She acknowledged citizens could go to the public hearing and object, but it doesn't stop anything. It doesn't give them the opportunity to protect their own rights. Current statute allows for an independent property owner or developer to come in and request an annexation. Opposers, which are typically the affected parcel owners, and the city council sit as an objective neutral body to weigh the evidence and make a decision based on the information presented to them. But, when you have a city as its own petitioner the people lose their objective neutrality. **Ms. Jovick** likened it to going into a courtroom and having the judge be the opposing party. The opportunity for fairness and neutrality is lost. She reported **S 1093** gives county parcel owners an opportunity to vote on annexation, and reiterated she was advocating on the behalf of rural land owners that don't have a voice in a process that forces them into city boundaries they may not want to be apart of.

Senator Rice asked **Ms. Jovick** to comment on the inconsistency of how **S 1093** read in relation to the individuals who has a right to protest. **Ms. Jovick** discussed which cities could object to annexation. She identified them as cities with a population of 8,000 or less and said that some of the language was inconsistent and may do well to be sent to the Amending Order.

Senator McKenzie asked who had the right to protest and the effects of it and also commented on the inconsistent flow of how this bill is written. **Ms. Jovick** said she agrees with his assessment on the need for clarification to make language in **S 1093** clearer.

Senator Bayer asked whether there would be different annexation criteria for a big city versus a small city experiencing similar growth boundaries. **Ms. Jovick** said that was a perfect example of why it would be more appropriate to amend **S 1093** to include all cities rather than limiting it to cities of 8,000 or less. The city of 8,000 or less, assuming it was forced annexation, would not have the opportunity to vote whereas the larger city would.

TESTIMONY: Speaking in opposition of **S 1093**:

Jerry Mason, counsel for Association of Idaho Cities, gave a brief history of municipal annexation saying it was essentially as old as the State was. He explained the fundamental foundations of annexation and growth of cities and said the annexation process is what has moved Idaho's small towns to become larger cities and provided many small towns to become more modern. **Mr. Mason** reported that for decades, Idaho law has required cities to plan. He said modern communities don't just happen; they come about because private developers and municipal officials cooperate to provide systems that function efficiently for all. A key part of the whole process has been municipal annexation. He indicated that the proposed change in **S 1093** would take away the decision making authority of local government officials and would turn it over to registered voters. In a letter given to each Senator he cited 14 components that were cause for concern regarding **S 1093**. He outlined 6 of the 14 (see attachment 1).

Senator Rice asked about the size of parcels cities can annex and whether there were any restrictions. **Mr. Mason** replied that there is an agricultural exemption for parcels five acres and greater. Otherwise parcels have to be divided or have begun to be divided. It's been the statutory language for well over 50 years. **Senator Rice** confirmed by asking if the parcel size was five acres or larger it couldn't be annexed. **Mr. Mason** replied the city could not include them in an annexation if they are for agricultural use and five acres or more. The parcel owner could simply petition and be excused from the annexation. **Senator Rice** followed up and asked what things the city would look at to deem the parcel agricultural. **Mr. Mason** said the rules that the Commission has established would be used in order to determine agricultural use. **Senator Rice** asked if there was real objection to a system that allows land owners to vote on whether they would be annexed or is the objection that **S 1093** may not be drafted as well as it could be. **Mr. Mason** replied that he believes there is a general concern that if urbanization could happen without annexation, they are basically breaking down the fabric of a system that's been established in Idaho for a century or more.

Senator Vick asked if there was opposition to allowing rural county citizens who own property or reside on property to have a vote on annexation. **Mr. Mason** said he supports Idaho Code § 50-222 which includes three types of annexation: Category A consensual, Category B smaller and partial consensual, and Category C where there is a polling of the owners. There has never been support for voting by voters. The concern lies with voters being able to stop expansion of a city.

Senator Vick asked him to comment on the situation in Bonners Ferry and whether the Association of Idaho Cities gave counsel to cities working to annex. **Mr. Mason** said they provide counsel if they are asked and that situation was particularly unique.

Senator Bayer asked if there were any other taxing districts that determine a property owners tax liability that's outside their boundary before they become incorporated or become annexed. **Mr. Mason** replied that owners bear tax liability when they become annexed, and each individual case has so much variance and uniqueness.

John Eaton, Government Affairs Director with the Idaho Association of Realtors, stated the provision in this legislation doesn't lend to orderly growth, and the situation may well be that one or two people could potentially stop growth. He reiterated that this is not smart growth, good planning, or what the Local Land Use Planning Act predicts or asks.

Senator Vick asked if there was a scenario where Mr. Eaton could support legislation to allow property owners to have a vote in annexation. **Mr. Eaton** said he supports the existing statute as it exists today. **Senator Vick** asked if he believed it was possible in the future, such as in cases discussed today would there be an opportunity for owners to vote. **Mr. Eaton** said he wasn't familiar with those cases and confirmed that his belief was that legislation such as **S 1093** would stop growth and development.

Senator Nuxoll issued closing remarks saying that this was a private property rights bill and suggested forced annexation was not fair. It was taxation without representation, and the government is here to protect rights. **Senator Nuxoll** stated the items in the bill that could be amended and asked that **S 1093** go to the Amending Order.

MOTION:

Senator Vick moved to send **S 1093** to the 14th Order for amendment. **Senator Bayer** seconded the motion. The motion failed.

Senator Bayer, Senator Rice, Senator Burgoyne, and Vice Chairman Johnson voiced their concerns by saying they don't believe the amending Order will be adequate and that they can't support sending **S 1093** to the 14th Order.

MOTION: **Senator Burgoyne** moved to have **S 1093** held in Committee. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:50 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary



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To: Members of the Senate Local Government & Taxation Committee
From: Seth Grigg, Executive Director
Date: February 24, 2015
Re: AIC Opposes Senate Bill 1093

The Association of Idaho Cities (AIC) appreciates the opportunity to share our concerns about Senate Bill 1093 and respectfully requests that you vote to hold the bill in committee. There are numerous technical issues with the bill that are outlined in the attached summary.

Since statehood, Idaho's policy has been to encourage urban growth within cities. This policy protects the viability of cities by ensuring continued future growth and development, and protects county taxpayers from the unnecessary burden of funding urban services. This policy has served the state well both from the perspective of promoting economic development, as well as efficient and effective delivery of urban services and infrastructure.

Senate Bill 1093 would frustrate cities' ability to grow in a planned, cost efficient manner, as cities would not be able to predict where voters would block future annexations. A patchwork of annexed lands on the periphery of cities would lead to much higher costs for extending infrastructure and providing services.

Businesses and developers rely on access to city water, sewer, streets, law enforcement, fire protection, and other services and infrastructure. By placing the fate of private investment in the hands of a few voters (who might not even be property owners), Senate Bill 1093 will frustrate the efforts of state and local officials who are working hard to attract new businesses and jobs to Idaho.

Currently, Idaho law treats cities of all sizes the same with respect to annexation. Senate Bill 1093 makes a critical policy distinction based on an arbitrary population threshold of 8,000, but there is no rational basis for doing so. It doesn't make sense to target smaller cities and restrict their ability to grow.

The cities affected by Senate Bill 1093—those under 8,000 population—are very diverse, including resort and tourist communities, farming and ranching communities, logging and mining communities, bedroom communities, etc. Some of these communities are growing fast, some are growing slowly, and some are losing population. Senate Bill 1093 is an ill-fitting one-size-fits-all policy that will hurt growth and development in smaller communities, some of which desperately need to attract new businesses, investment, and jobs.

We appreciate your consideration of these issues and urge you to hold Senate Bill 1093 in committee.

Drafting Concerns – Senate Bill 1093

P. 1, I. 15: Applies only to cities with a “population of less than eight thousand (8,000)...” - When is population measured? Last census or Idaho Department of Commerce estimates on behalf of Census Bureau?

P.1, I. 21: City “shall pass an ordinance declaring its intent to do so” – Ordinances are local laws that govern within city limits. First, cities merely explore annexation through the hearing process. Zoning procedures don’t allow predetermination. Second, a motion or resolution would be the appropriate tool to start the process – at much less public cost.

P. 1, II. 21-23: Ordinance must comply with “all state and local laws and rules governing the adoption of an ordinance” – Again, an ordinance is not the proper tool to start the process.

P. 1, II. 23-24: Refers to passage of an ordinance “to annex adjacent territory ...”. Prior lines only reference ordinance provisions declaring intent to annex (not what cities most frequently do), not actually annexing. Phrase is inconsistent with prior sentences.

P. 1, II. 23-27: Process for publication of ordinance (if it was the appropriate tool) is otherwise provided by Idaho Code (§50-901).

P.1, II. 27-35: Legal notice called for is extremely lengthy and differs significantly from existing process [Idaho Code §50-222(5)(b)] that is just as effective and far less costly. The required notice must be printed fourteen (14) times for cities that use a daily newspaper as their official newspaper, a substantial waste of resources. Unclear what publication requirements would apply for cities that use weekly newspapers. This provision also purports to require a time limit for providing services and a statement requiring return of taxes if promised services are not provided – all without providing standards.

P. 1, II. 35-37: Services referenced fail to distinguish between tax-supported services and fee-supported services as referenced in current law [I.C. §50-222(5)(b)(iii)].

P. 1, II. 38-41: Public hearing must be held “one (1) week after the last legal notice has been published”. Best practice is to establish minimum notice requirements. This provision would require scheduling a hearing based on the newspaper publishing schedule – no option would exist. Hearing procedure is inconsistent with procedural steps in I.C. §50-222. Current process includes lengthy time to hear from and exchange information with those whose lands might be considered for annexation.

P. 2, II. 2-7: Public hearing notice must be published for seven (7) days prior to the public hearing. Notice must be published for seven consecutive days if the city uses a daily newspaper as its official newspaper. Is this in addition to the fourteen publications required at P. 1, I. 35? If so, notice would need to be published twenty-one (21) times. If hearing is continued, it would need to be published fourteen (14) or twenty-one (21) more times for each continued date.

P. 2, II. 13-20: Protests could be submitted to the city council, the city attorney, city clerk, the mayor or the planning and zoning board within five (5) business days after the public hearing(s). So any protest by

any resident, even one who doesn't own land could stop annexation. Even a written protest by one who had contracted to consent to annexation would halt proceedings. Such a process raises issues of interference with contract.

P. 2, ll. 21-32: A single protest would require the conduct of an election, although revisions to I.C. §50-222(3)(a) proposed on P. 3, ll. 39-42 require 25% of landowners to protest in order to require an election. Provisions referenced are internally inconsistent. The election is to be conducted by the county even though the boundary will not conform to precinct boundaries. Participation would exclude non-resident property owners and would include residents who own no property. (Those who live in an apartment building could defeat a proposal by an owner needed to save his building (failed well or septic system); the non-resident owner could not vote.)

P. 2, ll. 47-49: The proposal appears to require duplicate proceedings; calling for compliance with provisions of I.C. §50-221A, and then, if approved, calling for annexation on October 1, after "perfection of the required processes as specified in sections 50-222 through 50-224, Idaho Code." - depending on what "perfection" means.

P. 3, ll. 3-4: The procedures of 50-221A are deemed to only apply to annexations "initiated by cities". What if a Category B annexation is initiated by a land developer who holds an option and annexation of an additional parcel or two is needed to provide contiguity. Would the development be blocked by an election?

P. 3, ll. 39-42 and PP. 3/4, ll. 48-2: Both of the proposed revisions call for signatures by 25% of the owners (owners as a marital community, undivided ownership of the whole, stockholders in a corporation, partners in a partnership, members of an LLC ...?) while the provisions in proposed I.C. §50-221A (P.2, ll. 21-23) requires an election if any single property owner protests.

In general the provisions in SB 1065 raise the following drafting issues:

- The choice of procedures is inconsistent with well-established municipal processes
- Publication standards are needlessly burdensome and costly
- Provisions in the proposed §50-221A are inconsistent with existing law in many ways.
- Property rights protected by existing law are overridden by voters rights in the proposal
- Orderly development of urban areas is cast aside – contrary to more than 100 years of precedent

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, February 26, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from February 12, 2015	Senator Guthrie
Gubernatorial Appointment	Confirmation Hearing and vote on the appointment of Elliot Werk to the State Tax Commission	Elliot Werk, Idaho State Tax Commission
<u>H 68</u>	Relating to amending existing law to include counties in exemptions that the state enjoys for printing, engraving, binding or stationery work.	Phil McGrane
<u>H 95</u>	Relating to adding to an existing law to provide an exemption from the sales or use tax on certain materials used in connection with a public road and to provide exceptions.	Senator Jim Rice

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Werk
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, February 26, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie and Burgoyne

ABSENT/ EXCUSED: All present, with a vacancy in District 17.

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

MINUTES: **Chairman Siddoway** called for the approval of the Minutes from February 12, 2015.

APPROVAL: **Senator Guthrie** moved to approve the Minutes of February 12, 2015. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

GUBERNATORIAL APPOINTMENT: **Chairman Siddoway** introduced the gubernatorial appointment of **Elliot Werk** to the Idaho State Tax Commission (Commission). He welcomed **Mr. Werk** and asked him to take the podium, introduce himself, and provide some background about his qualifications for this job.

Mr. Werk told the Committee that during his 12 years of service in the Idaho State Senate, including 8 years on the Committee, he had gained expertise with Idaho statutes, understanding rules, and distinguishing the difference between making policy and the administration of policy. He briefed the Committee on his work experience, his understanding of the Commission, and what issues he had seen during his first week including security, safety, fraud, and morale. He closed with a statement of his vision for the Commission.

All the Senators wished Mr. Werk well by giving their individual comments on memories of him in the Legislature. **Chairman Siddoway** announced that the vote would be taken at the next Committee meeting and thanked Mr. Werk for coming before the Committee and for his service as a Senator.

H 68 **Phil McGrane** explained **H 68** is to amend Idaho Code § 60-103 to include counties in the exemptions allowed to the State for out of state printing. Currently, Idaho Code § § 60-101 and 60-102 limit both the State and all counties to printing within the State. Section 102 also indicates that counties must first seek printing services within their county. The penalty for violating these sections is a misdemeanor. Under Idaho Code § 60-103, which this legislation would amend, the State is currently granted exemptions to use out of state printing services. The exemptions include:

- When the technical requirements are not able to be performed within the State.
- When there are no in state bidders to a public bidding process.
- When in state bids are 10 percent greater than an out of state bid.
- This legislation would extend these same exemptions to counties.

Mr. McGrane continued by telling how the issue with this statute was made known. He reported that Ada County looked into using an out of state printer for technical reasons and their prosecutor made them aware of the conflict. While researching the issue, the common perception by county officials, Legislators, and others was that these exemptions already existed for the counties, but they do not. As a result, many counties are currently using printing services out of state.

Mr. McGrane gave a brief history of the current statutes and stated that they were originally written in 1903 when the market place for printing was very different. He inserted that with the internet many services like printing have been consolidated due to the ability to ship and reduce costs. Additionally, new technologies for printing such as specialty 3D printing and others have been developed that may not exist within the State.

Mr. McGrane said **H 68** would allow counties the same benefits granted the State, to seek often less expensive and better services that may exist outside the states. It will ensure that current practices are properly aligned with the legal requirements. These practices save counties considerable money and allow counties to take advantage of improvements in technology.

Senator Rice noted that **Mr. McGrane** said he was looking to go out of state to have election printing done due to a technical process reason and asked if he was able to get the printing done in state. **Mr. McGrane** said that right now printing is being done in state and that security is the main issue of concern.

Senator Rice asked about the language in **H 68** and whether the three exceptions provide enough coverage. **Mr. McGrane** reiterated that this legislation was meant to apply broadly and to encompass the same rules to the State as to the county.

MOTION:

Senator McKenzie moved to approve **H 68** with a **do pass** recommendation.

Senator Johnson seconded the motion. The motion carried by **voice vote**.

H 95

Senator Rice presented **H 95**, Article VII, Section 17 of the Constitution of the State of Idaho regarding gasoline taxes and motor vehicle registration fees to be expended on highways. He said that this legislation exempts road materials used to construct, improve and maintain public roads from the sales use tax. Currently, the fiction that the contractor is the end user of the materials is used to tax such materials, even if they are proved by the State or its subdivisions that have the responsibility to build and maintain public roads. The result is higher costs for road projects and a transfer of the money to the General Fund.

Senator Rice reported that there will be an impact to the sales tax revenues of \$15-20 million. This is split between the General Fund and local government. The impact to the General Fund is \$13.275-17.7 million. The impact to cities and counties is \$1.725-2.3 million. This money will remain with and be used by the transportation agencies where the funds were dedicated by law.

Senator Burgoyne asked what would happen to the budgets that are funded out of the General Fund with respect to the fiscal note. He wanted to know if there was replacement funding or something that would hold those budgets harmless.

Senator Rice replied that there is not replacement funding and that this is money that is being taken off of the roads and should remain in transportation.

Senator Burgoyne asked if there was any assurance that monies would go back into the Idaho Department of Transportation budgets and not into the pockets of the people constructing roads. **Senator Rice** said that margins are narrow enough that if a contractor tried to add to their profits, their bid would end up not getting jobs, and if a contractor does not get jobs, he doesn't make any money. A bid is created on cost, plus profit.

Senator Guthrie asked who would oversee and regulate to make sure the materials that are supposed to be tax exempt remain tax exempt. **Senator Rice** reported that there were discussions making sure there were clear definitions indicating what was road parts.

Senator Johnson asked what he would think of a system to provide a bid sheet of how much there would be paid in taxes. **Senator Rice** stated reasons for why that would be difficult and would result in reduced bids. **Senator Johnson** asked if contractors used materials and equipment half on government projects and half on private projects, would that create an accounting workload having to distinguish between what was deductible and taxable depending on the percentage of the use. **Senator Rice** said the equipment used would not be tax free, only the materials that become property of the State. If there were left over materials that were not used by a contractor then the contractor who is more careful would get the job. This is because there is a great deal of competitive bidding in road construction.

Senator Burgoyne commented about the General Fund and how he thought the fiscal impact of **H 95** would affect other budgets in a negative way. He acknowledged that transportation was largely underfunded, but this bill would not solve the problem. Transportation funding problems need to be addressed by new money coming into the system.

MOTION:

Senator Vick moved to approve **H 95** with a **do pass** recommendation. **Senator Rice** seconded the motion. The motion carried by **voice vote**, **Senator Burgoyne** and **Senator Johnson** requested that they be recorded as voting nay.

ADJOURNMENT:

There being no further business, **Chairman Siddoway** adjourned the meeting at 4:00 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 03, 2015

SUBJECT	DESCRIPTION	PRESENTER
Gubernatorial Appointment	Vote on the appointment of Elliot Werk to the State Tax Commission	
<u>H 133</u>	Relating to amending existing law to establish additional provisions relating to a capital gains deduction	Senator Brent Hill
<u>H 109</u>	Relating to amending existing law to revise the definition of "real property" for capital gains purposes	Robert Aldridge
<u>S 1107</u>	Relating to Trust Accounts amending and repeals existing law to revise procedures for how an individual may designate a trust account or the Idaho Opportunity Scholarship to which income tax refund or liability moneys are remitted	Senator Jeff Siddoway

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Werk

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

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MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 03, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie and Burgoyne

ABSENT/EXCUSED: All present, with a vacancy in District 17.

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

GUBERNATORIAL APPOINTMENT: **Chairman Siddoway** invited the Committee to consider a vote on the gubernatorial appointment of Elliot Werk to the Idaho State Tax Commission.

MOTION: **Senator McKenzie** moved to send the gubernatorial appointment of Elliot Werk to the Idaho State Tax Commission to the floor with the recommendation that he be confirmed by the Senate. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

H 133 **Senator Brent Hill** presented **H 133**. He reported that Idaho allows a 60 percent tax deduction for capital gains derived from the sale or disposition of tangible personal property used in a revenue producing business and held for at least 12 months. Cattle or horses held for breeding, draft, dairy or sporting purposes for at least 24 months and other livestock used for breeding held for at least 12 months also qualify for the deduction if more than one-half of the taxpayer's gross income is from farming or ranching in Idaho. Idaho Code § 63-3022H(3) clearly states that capital gains generated by pass-through entities that meet the farming or ranching requirement also qualify for this capital gains deduction. These gains retain their character when passed through to the individual owners of the pass-through entity. This legislation clarifies that if the farming or ranching requirement is met at the pass-through entity level, the qualifying capital gains will qualify for the deduction by the individual owners, regardless of whether or not more than one-half of the personal income is derived from farming or ranching. This results in consistent treatment of all qualifying capital gains, rather than holding livestock to a different standard.

TESTIMONY: **Stan Boyd**, Idaho Cattle Association, testified on behalf of **H 133**. He said it would help future generations of livestock industries and would level the playing field for everybody.

MOTION: **Senator Rice** moved that **H 133** be sent to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

H 109

Robert Aldridge, Chartered Attorney at Law, presented **H 109**. He reported that this bill is about income tax and is specifically limited to capital gains treatment of sales of real property under Idaho tax law. Idaho Code § 63-3022H deals with whether a sale qualifies for capital gain treatment in determining Idaho taxable income. If the income is capital gain income, then 60 percent of the gain is deducted to determine Idaho taxable income. The main property that qualifies for capital gains treatment is real property held at least 12 months. Part of the reason for the deductibility of capital gains is to encourage long-term investments in real property, therefore the 12 month holding period.

Mr. Aldridge said that currently the problem is the confusion that has arisen as to whether certain types of interests in real property, clearly covered in federal tax law, are to be treated as real property for Idaho tax law. He explained that **H 109** removes the confusion by adopting two specific interests clearly defined in federal tax law and one more general citation of the federal statute that defines real property.

H 109:

1. Adopts the definition of a "qualified conservation easement". If that easement is conveyed to a qualified organization that is clearly treated federally as capital gain property and should be so treated by Idaho tax law.
2. Grazing permits and leases issued by either the US Forest Service, the Bureau of Land Management or by the Idaho Department of Lands. Permits to be attached to a "base property" which adjoins the permit area and that the applicant has the requisite number of cattle to use the permit. Leases do not have those requirements.
3. Third, Internal Revenue Code 1250 defines real property. This section of the bill also requires that the property be conveyed in perpetuity and that the transfer is required to be in writing. That section clarifies the Idaho definition of real estate, mainly that leases for one year or less are not considered real property nor are trusts or other powers over real property treated as real property.

The effect of this bill is to give a clear answer to the question of what qualifies for capital gains treatment under Idaho tax law. It also complies with federal tax law and with the original intent of the statute when it was passed. This bill restores the original intent of the statute. The bill is retroactive to all tax years beginning on or after January 1, 2010.

Mr. Aldridge reported that there would be no fiscal impact and asked that it be sent to the Amending Order.

A lengthy discussion ensued concerning possible amendment of **H 109**. **Senators Burgoyne, Rice, Johnson, Siddoway** and **Guthrie** submitted questions to Mr. Aldridge in efforts to clarify.

TESTIMONY:

Terry Dodds, Dodds and Associates, testified in response to the legislation. He said what he would like to see happen is for property with intangible rights to be treated as real property just as it is treated in the federal tax code. He reported the current issue at the CPA level and being what is the correct interpretation regarding the intangible rights of a property being real property or not. He stated that in Idaho real property should include anything appurtenant to the real property, and it would be extremely helpful if the Idaho tax return is reflective of the federal tax return.

Chairman Siddoway expressed his concern over the fiscal note. He thought there will be money involved and said he would feel uncomfortable taking it on the floor.

Mr. Aldridge made closing statements and said he was open to whatever language changes needed to be done in order to clarify **H 109**.

Chairman Siddoway asked Mr. Aldridge if he had some proposed amendments that he would like to see attached to this bill. **Mr. Aldridge** said he could come up with some proposed language and that he would like to have it looked over by other Committee members prior to moving forward.

Senator Rice expressed concern about sending **H 109** to the 14th Order without having a chance to discuss the amendments.

MOTION: **Senator Rice** moved to hold **H 109** in Committee subject to the call of the Chair. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

S 1107 **Chairman Siddoway** presented **S 1107** and said this bill is proposed to remove the requirements for Idaho State Tax Commission to list donations to trust accounts on a conspicuous portion of the primary individual tax form. In other words, this bill will allow flexibility for the Tax Commission to consolidate forms and move sections of forms within an individual tax return. It also deletes the Idaho agriculture in the classroom account and the drug and driving while under the influence enforcement donation fund because they no longer meet the requirements of Idaho Code § 63-3067C. This bill also removes the code references to Idaho Code § 63-3067B since that section is being repealed. He reported that there would be no negative fiscal impact to the General Fund.

MOTION: **Senator Rice** moved to send **S 1107** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:27 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, March 05, 2015

SUBJECT	DESCRIPTION	PRESENTER
Unanimous Consent to Send RS 23713 to the Senate Judiciary and Rules Committee for Print	Relating to establishing provisions regarding the Urban Renewal Agency Board of Commissioners	Senator Souza
<u>H 75</u>	Relating to sales tax amending existing law to exempt eyeglasses, eyeglass component parts and contact lenses from sales tax	Kris Ellis
<u>H 39</u>	Relating to sales tax - production exemption amending existing law to remove a certain exception to the production exemption	McLean Russell

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Werk
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 05, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Bayer, Guthrie, Werk and Burgoyne

ABSENT/ EXCUSED: Senator Vick, with a vacancy in District 17.

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

Chairman Siddoway reported that **RS 23713** would be heard in another Committee.

H 75: **Kris Ellis**, Idaho Optometric Physicians, presented **H 75**. She reported this legislation is to align the sales tax of prescription eyeglasses and contacts with that of other prescriptions and medical devices. Taxes on prescription eyeglasses would be eliminated in the first year, and taxes on prescription contacts would be eliminated the second year. **Ms. Ellis** said the estimated fiscal impact would be \$1.42 million in 2016 and additional \$1.42 million in 2017, for a total of 2.84 million on going.

Senator Guthrie expressed concern about the consumers being over taxed. **Ms. Ellis** stated that taxes are being charged to the consumer on the full retail price.

TESTIMONY: **Dr. Jared Walker**, a private practice business owner from Twin Falls, said their office has been charging sales tax on the full retail amount to their patients and that in many cases this is not fair to their clients. He asked for the Committee's support of **H 75**.

Senator Burgoyne asked about vision insurance companies and the varying discounts given. He specifically wanted to know if the retail price fluctuated between insured and non insured patients and to that end what price was sales tax being charged. **Dr. Walker** said the retail price remains the same for all patients and the discount, based on the patients insurance, is what is determined. He explained that when a practice has a contract with an insurance provider the provider will give their members a percentage off the retail price

Senator Guthrie asked if insurance companies paid sales tax or was it solely a responsibility of the patient. **Mr. Walker** said that it was the responsibility of the patient to pay sales tax.

Dr. Randy Andregg, Retired Optometrist and Executive Director for the Idaho Optometric Physicians Association, spoke in support of **H 75**. He said he has been actively involved with the Tax Commission to try and come to a working conclusion that would treat the State and patients fairly.

Senator Guthrie asked if the frames would be taxable and if he knew of any times when there had been penalty of action taken towards any doctors for remitting tax revenue improperly. **Dr. Andregg** replied that frames are taxed, and yes, he has had multiple complaints of funds being handled incorrectly. This is the reason for several years of work with the Commission for a solution and this legislation.

Pam Eaton, President and CEO of the Idaho Retailers Association, said she was in support of this legislation and didn't know why prescription eyewear was ever taxed.

MOTION: **Senator Burgoyne** moved to send **H 75** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion.

SUBSTITUTE MOTION: **Senator McKenzie** moved that **H 75** be held subject to the discretion of the Chair. **Senator Rice** seconded the motion.

ROLL CALL VOTE: **Chairman Siddoway** requested a roll call vote. **Senators McKenzie** and **Rice** voted aye. **Senators Siddoway, Johnson, Bayer, Guthrie** and **Burgoyne** voted nay. The motion failed.

ROLL CALL VOTE: **Chairman Siddoway** requested a roll call vote on the original motion. **Senators Johnson, Rice, Bayer, Guthrie** and **Burgoyne** voted aye. **Senators Siddoway** and **McKenzie** voted nay. The motion carried.

A lengthy discussion ensued concerning **H 75**. **Senators Bayer, Rice, Guthrie, Burgoyne** and **Siddoway** submitted statements.

H 39: **McLean Russell**, the State Tax Commission, presented **H 39**. He explained that this bill deals with the production exemption in the Sales Tax Act which allows an exemption from sales and use tax for certain tangible personal property used in the production process. An exception exists for tools that cost \$100 or less, making these items subject to tax regardless of how they are used. The \$100 exception has been in place and fixed at that amount since the inception of the Sales Tax Act in 1965. The \$100 amount no longer meets the policy goals the exception was designed to address. The hand tool exception is becoming difficult for taxpayers to understand and comply with and for the Tax Commission to administer. To simplify the Sales Tax Act, the proposal repeals the hand tool exception. **Mr. Russell** said the original policy intent of the hand tool exception has been largely lost, and the administration and enforcement of the exemption is cumbersome both for taxpayers and the Tax Commission. The hand tool exemption needs to go and this bill achieves that. He reported this legislation would result in a decrease in sales tax collections of \$1.5 million.

Senator Burgoyne asked what the cost to the Tax Commission was to administer this exemption. **Mr. Russell** said he didn't know exactly what this exemption was costing the State, but certainly it has an effect.

Senator Rice asked what percentage of the sales tax goes to the General Fund and what percentage is distributed elsewhere. **Mr. Russell** replied that approximately 80 to 85 percent of sales tax collected goes to the General Fund, but that he didn't have those exact figures. The remainder goes to a variety of things, but primarily revenue sharing.

TESTIMONY: **Russ Hendricks**, the Idaho Farm Bureau, testified in support of **H 39** and said this bill not only relieves internal confusion and administrative burden for the Tax Commission, but also relieves a burden for those who purchase hand tools and those who sell hand tools. He said it is never good tax policy to tax items multiple times through the production chain. **H 39** helps to get back to taxing at the final consumer level.

Brent Olmstead, Idaho Food Producers, testified in support of **H 39** and said this bill would be a relief for the confusion surrounding hand tools.

Senator Rice made a statement about the fiscal impact and its effects on the General Fund and said he believed it was incorrect. He expressed his concern about an edit to the fiscal note.

Mr. Russell reported most of the sales tax distributions were a set amount to get the General Fund impact, and the Commission would be able to adjust the fiscal note to reflect the impact.

MOTION: **Senator Guthrie** moved to send **H 39** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

Chairman Siddoway and **Senator McKenzie** requested that they be recorded as voting nay.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:50 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 10, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from February 17, 2015	Senator Guthrie
	Approval of Minutes from February 19, 2015	Senator Rice
	Approval of Minutes from February 24, 2015	Senator Bayer
<u>H 142</u>	Relating to planning and zoning and amending existing law to revise procedures for appointment of members of a city planning and zoning commission when a vacancy occurs outside the boundaries of a certain city's area of impact.	Tony Poinelli
<u>H 156</u>	Relating to the purchase of property and amending existing law to provide that the county tax collector may bid on property for sale if it is deemed in the best interest of the county and to provide that the tax collector shall dispose of the purchased property by sale in the same manner as other personal property belonging to the county.	Caitlin Rusche

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Werk
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 10, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Stennett and Burgoyne

ABSENT/ EXCUSED: Senator Guthrie

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

Chairman Siddoway welcomed Senator Michelle Stennett to the Committee as a new member.

MINUTES APPROVAL: **Senator Rice** moved to approve the Minutes of February 19, 2015. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Bayer** moved to approve the Minutes of February 24, 2015. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

H 142 **Tony Poinelli**, Idaho Association of Counties, presented **H 142** and said this legislation would allow a board of county commissioners to appoint to the county planning and zoning commission a resident within a city's area of impact in an incorporated city when the board is unable to obtain applicants from outside the area of impact and the incorporated city limits. If a board must appoint residents from within a city's area of impact or incorporated limits and the county has multiple cities, then such appointments from such cities must be on a rotating basis. There is no impact to the General Fund or to the budget of any county or political subdivision.

Senator Rice asked how the rotation between cities with different populations works. Does the language allow more flexibility or is it reducing flexibility the way the legislation is drafted. **Mr. Poinelli** said it provided new flexibility that isn't there now. The overall intent is to keep the process in place for the original appointments: one third from the incorporated cities and up to 50 percent in tact. The goal was to stay with the intent of the statute.

Senator Burgoyne asked what the Association of Idaho Cities, Boise, and Garden City thought of this legislation. Is there a particular problem **H 142** addresses? **Mr. Poinelli** said those cities presented this legislation to the Association of Cities, and he has not heard of any issues. **Senator Burgoyne** asked whether a planning and zoning commission can make decisions that affect property owners within a city or impact area lawfully. **Mr. Poinelli** said yes, within the city of impact area, that is a county responsibility. Not within the incorporated limits of a city.

TESTIMONY: **Meghan Leatherman**, Director of Development Services for Ada County, testified in favor of **H 142**. She said it will give more flexibility when recruiting their planning and zoning members. The goal is to have a diversified representation on the commission. With current statute, it has been difficult to pull from the more rural areas.

Senator Rice asked if she was confident that a single exception to allow going into the area of impact is going to bring enough applicants. **Ms. Leatherman** said yes, they are confident in the proposed language as stands and feel it allows enough flexibility to achieve what they are looking for. **Senator Rice** expressed a concern about the language regarding rotation having said "all the incorporated cities" indicating any incorporated city and essentially having the smaller cities in the rotation with the bigger cities. **Ms. Leatherman** said that was not her understanding, but an individual from a city of less than 1,500 population would not be part of the rotation.

There was much discussion regarding how the language of **H 142** was interpreted which indicated there might need to be more clarification.

Senator Stennett asked how the area of city impact was defined. **Ms. Leatherman** said the area of impact boundary is a negotiated boundary between the county and the city. The intent of the area of impact is for planning purposes for future growth and annexation to potentially occur in the near future within the area. **Senator Burgoyne** asked why the rotating process was chosen to amend the statute. **Mr. Poinelli** said it was because everyone should have the same capability whether a large or small city to make it fair.

MOTION: **Senator Rice** moved to send **H 142** to the 14th Order for amendment. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

H 156 **Caitlin Rusche**, Idaho Association of Counties, presented **H 156** and said this legislation would make optional the requirement for the county tax collector to bid on a piece of personal property offered for sale when no other person bids on such property. This would enable the tax collector to bid only if the county determines bidding on such property is in the best interest of the county. There is no fiscal impact.

Senator McKenzie asked how the sale takes place and what is done with property that was seized but does not have any value. **Ms. Rusche** said there would be no bid on the property and it would sit vacant.

Senator Burgoyne asked about the nature of the seeming controversy. **Donna Peterson**, Payette County Treasurer, said this happens in smaller counties where there are part-time prosecutors needing the verbiage to be clarified.

Chairman Siddoway asked what happens if they have a vacated property and can't find the owner. Also, if nobody shows up to bid, how does the county make a decision? Is it solely based on finances. **Ms. Peterson** said in most cases this appears when a smaller, old mobile home sits in a mobile home park and nobody shows up to bid. The park owner is usually contacted and asked if they would like to purchase the mobile home.

MOTION: **Senator Johnson** moved to send **H 156** to the floor with a **do pass** recommendation. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:41 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, March 12, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from February 17, 2015 Approval of Minutes from February 26, 2015 Approval of Minutes from March 3, 2015	Senator Guthrie Senator Burgoyne Senator McKenzie
H 172	Relating to minor changes that provide clarity to the Tax Reimbursement Incentive	Jeff Sayer
H 209	Relating to Sales and Use Tax amending existing law to revise the definition of "tangible personal property" and to remove the definition of "digital videos."	Jason Kreizenbeck

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Stennett
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 12, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie, Stennett and Burgoyne

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

MINUTES APPROVAL: **Senator Guthrie** moved to approve the Minutes of February 17, 2015. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Burgoyne** moved to approve the Minutes of February 26, 2015. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator McKenzie** moved to approve the Minutes of March 3, 2015. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

H 172 **Jeff Sayer**, Director of the Department of Commerce (Commerce), presented **H 172** and discussed the purpose of this bill. He said since becoming effective July 1, 2014, the Idaho Tax Reimbursement Incentive (TRI) has proven very effective in helping existing companies expand, and it is attracting new companies to the State. The unexpected activity has enabled the Commerce team to see a wide variety of scenarios and situations where the application process and the corresponding rules have all been tested and put into practice. From those varied scenarios, the Commerce team has identified certain parts of the statute that need to be modified to more accurately implement the statute. **H 172** addresses those necessary changes.

The summary of changes are:

- Clarify definitions to ensure projects are held accountable for bringing higher paying jobs.
- Clarify the affiliation with the municipalities who partner on the projects.
- Correct minor descriptions such as an affidavit to letter and calendar year to tax year.
- Moving clauses to more appropriate sections of the statute.

The key is that these revisions do not change the original scope or intent of the bill, nor do they materially change the requirements in the bill. Instead, these changes respond to difficulties encountered during implementation of the statute and help Commerce move forward with more clarity.

Mr. Sayer reported these changes are not anticipated to create any variations to the proposed eligibility of projects applying for the TRI, and as a result, there is not an anticipated fiscal impact.

A lengthy discussion ensued concerning **H 172** and the TRI. **Senators Bayer, Guthrie, Burgoyne, Vick, Rice, Stennett** and **Johnson** submitted questions to Mr. Sayer in efforts to clarify.

MOTION:

Senator McKenzie moved to send **H 172** to the floor with a **do pass** recommendation. **Senator Rice** seconded the motion. The motion carried by **voice vote**. **Senator Johnson** requested to be recorded as having voted nay.

H 209

Jason Kreizenbeck, President of Lobby Idaho, presented **H 209** and said this legislation represents several months worth of work that started with the rulemaking process taken on by the Tax Commission last summer and fall on last year's HB 598 dealing with "remotely accessed computer software", or the Cloud Services bill. **H 209** is one more clarification to this bill. **Mr. Kreizenbeck** reported that the purpose of this proposal is to amend Idaho Code § 63-3616 revising the definition of "Tangible Personal Property" to clarify that the purchaser of digital music, digital books, digital games or digital videos must be granted a "permanent right to use" in order to be subject to the Idaho Sales and Use Tax, regardless of the method of delivery. It clarifies that if the right to use digital music, digital books, digital videos or digital games is conditioned upon continued payment from the purchaser, then it is a subscription to a service and is not a "permanent right to use" and is therefore not subject to the Idaho Sales and Use Tax.

This change is necessary to clarify that online-based subscription services like Netflix, Pandora, and Spotify are services because they do not allow the end user to keep, copy, or permanently use content and are therefore not subject to the Idaho Sales and Use Tax. If an end user is granted a "permanent right to use" digital content, regardless of the method of delivery, then it is subject to the Sales and Use Tax and fits under the description of tangible personal property that was modified last session as part of H 598.

H 209 also removes the definition of "digital videos" in an effort to clarify that broadcast television services, regardless of method of delivery, are also not subject to the Idaho Sales and Use Tax. The current definition of "digital videos" had references to "live broadcasts" and "television or cable broadcasts" as exempt from this section, but it did not include a reference to "satellite broadcasts." There was an attempt to clarify this during the rulemaking process, but the Tax Commission said that a legislative fix was needed, despite the fact that such services had never previously been subject to the Idaho Sales and Use Tax.

H 209 also has an emergency clause and will be in effect on and after April 1, 2015 if adopted. This date was selected due to the fact that Sales and Use Tax is collected on a monthly basis. The fiscal impact of **H 209** is estimated to be \$331,875 to the General Fund from sales tax payments in fiscal year 2015, as the estimated changes could have an annual impact as high as \$1,327,500 to the General Fund. Several companies submitted comments to the Idaho Tax Commission during the rulemaking process stating that last year's H 598 did not grant the Tax Commission the ability to levy a new tax on online subscription services because they were and remain "services" that are not taxed in Idaho.

Mr. Kreizenbeck said **H 209** is intended to put speculation that tax could be applied to streaming services and other services to rest. He reported that the larger fiscal impact number of \$1,327,500 annually is based mainly on the levying of a tax that some would argue the Tax Commission was not granted legislative authority to do. In addition, while it could have a \$331,875 fiscal impact to the General Fund in FY 2015, **H 209** does not order a refund of an estimated \$1.125 million that may have been collected in Sales and Use Tax under this section so far.

Mr. Kreizenbeck referenced a letter from the Tax Commission (see attachment 1) that he wanted included in the record. The letter, dated March 4, 2015, explains how the Tax Commission interprets **H 209** and how it would apply if approved by the Legislature. This letter was an important submission for some of the advocates who worked on the rules for H 598 last year and commented on different versions

on **H 209** as it was a work in progress.

Mr. Kreizenbeck stated last session when the Legislature approved H 598 an important tax policy was set for both the software industry and all Idaho businesses that use software. That policy recognized how much this industry and the delivery of these products and services had changed with new technology. It was an important modernization of the Idaho Tax Code. In setting such a policy, the Legislature also wanted to make it clear that the current taxes applied to software defined as "entertainment" in the form of digital music, digital books, digital games or digital videos would remain in tact to keep these products in parity with the same products that could be purchased in a retail outlet in the form of CDs, DVDs, Blue Ray discs, books and video games.

There is already a well-defined system in place to levy and collect sales tax on these types of transactions, which will remain preserved with **H 209**. He stated that what the Legislature did not do with the passage of H 598 was create a new tax on traditional broadcast television services in its various forms or on other services defined as "entertainment" in the statute.

The Idaho Tax Commission indicated through the rulemaking process on H 598 that this distinction was not clear, and they needed a clear line to be created in the Idaho Code. **H 209** is language negotiated, proposed and agreed upon by the Tax Commission to make this important policy distinction.

Mr. Kreizenbeck asked that the Committee send **H 209** to the Senate floor with a do pass recommendation.

Senator Burgoyne asked a question regarding the fiscal note and if the State collected any money. **Mr. Kreizenbeck** said the fiscal note was developed in conjunction with the Tax Commission and said he couldn't say for sure if the money had actually been collected or remitted to the State. Estimations are with the changes tied to the previous rules reviewed that related to H 598 of last year. If those were put into place, it could collect as much as 1.5 million dollars. Based on that assumption the fiscal note was developed.

Senator Rice asked if his understanding was correct that the fiscal note was speculation. **Mr. Kreizenbeck** replied that he thought it was an honest effort to put a number on what the impact of the policy was that the Tax Commission was developing through rules.

- TESTIMONY:** **Ron Williams**, Idaho Cable Telecommunication Association, said he was concerned about a few changes, but the new language in **H 209** had clarified the concerns he had.
- MOTION:** **Senator Vick** moved to send **H 209** to the floor with a **do pass** recommendation. **Senator Burgoyne** seconded the motion. The motion carried by **voice vote**.
- ADJOURNED:** There being no further business, **Chairman Siddoway** adjourned the meeting at 4:15 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

IDAHO

State Tax Commission

PO Box 36 • Boise ID 83722-0410
800 Park Blvd., Plaza IV • Boise ID 83712-7742

March 4, 2015

Ronald L. Williams
Idaho Cable Telecommunications Association
c/o Williams Bradbury, P.C.
1015 W. Hays St.
Boise, ID 83702

Jason Kreizenbeck
Satellite Broadcasting & Communications Association
c/o Lobby Idaho, LLC
134 S. 5th St.
Boise, ID 83702


Dear Ron and Jason,

The Tax Commission does not set tax policy or declare legislative intent. That authority, of course, lies with the legislature. Consequently, this letter is only intended to explain the Tax Commission's understanding of H 209 as it would apply to certain transactions beginning on April 1, 2015. This letter affirms that the video products and services currently offered by your clients will not be subject to Idaho sales and use tax under H 209.

More specifically, the "permanent right of use" language in H 209, coupled with the "conditioned upon continued payment" language, ensures that the cable and satellite video products and services currently offered will not be taxable under H 209. In addition, the "continued payment" language in H 209 includes the subscription-based nature of your video business models and the ongoing relationship cable and satellite companies have with their respective customers. Of course, in the event that video products and services with a "permanent right of use" are sold by cable and satellite providers, these transactions will be taxable like they would be if sold by any another retailer.

Thank you for this opportunity to clarify these issues and to state more clearly the Commission's understanding of H 209's impact on cable and satellite providers in Idaho.

Regards,



Richard W. Jackson
Chairman

mjc/vjd

cc: The Honorable Gary E. Collins, Chairman, House Revenue & Taxation Committee



March 12, 2015

Chairman Jeff Siddoway
Senate Local Government & Taxation Committee

Re: H209

The Idaho Cable Telecommunications Association (ICTA) concurs with the statements of Richard Jackson, chairman of the Idaho Tax Commission, when he affirms the following:

- Video products and services that are currently offered by cable companies will not be subject to Idaho sales and use tax, under H 209.
- Cable delivered video services, which are subscription based services, are not a “permanent right to use” such videos and therefore not subject to Idaho’s sales and use tax.

It is because of these clarifications that cable companies agree that the language on lines 31 through 33 of H209 could be stricken; i.e., that “cable broadcasts: are not considered taxable “digital videos.”

In effect, prior to H 209, cable delivered products and services were not subject to the Idaho sales and use tax, and that status quo is continued under H 209.

Thank you.

Sincerely,

/s/ *Ron Williams*

Ronald L. Williams
Executive Director, ICTA

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Tuesday, March 17, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from March 5, 2015	Senator Johnson
Docket Number 35-0102-1401	Idaho Sales And Use Tax Administrative Rules - Cloud Computing, Software, Digital Products: Rule 27	McLean Russell, State Tax Commission
<u>H 208</u>	Property Tax Relief - amends existing law to further define the term "claimant."	Senator Burgoyne
<u>H 202</u>	Fire Protection Districts - amends existing law to provide requirements relating to assessing the value of certain personal property, to provide requirements for the sale of certain personal property and to provide that certain individuals are not eligible to acquire certain personal property.	Joe Stear, Idaho State Fire Commissioners Assoc.
<u>H 220</u>	Tax Credits - amends existing law to revise criteria as to how certain nonprofit corporations, funds, foundations, trusts or associations qualify for a state income tax credit.	Blake Youde, Idaho State Board of Education
<u>S 1147</u>	Municipal Corporations - amends existing law to authorize the issuance of certain bonds to provide for the protection of public safety by the establishment of fire and police departments and by the purchase of building sites, buildings and equipment and apparatus necessary to provide police protection.	Chairman Siddoway
<u>H 109</u>	Relating to amending existing law to revise the definition of "real property" for capital gains purposes: Amended changes	Bob Aldridge, Chartered Attorney at Law

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Stennett

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

email: sloc@senate.idaho.gov

MINUTES

SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 17, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie, Stennett and Burgoyne

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

UNANIMOUS CONSENT REQUEST: **Chairman Siddoway** asked for unanimous consent to hold **Docket No. 35-0102-1401** in Committee for further evaluation. There were no objections.

H 208

Senator Burgoyne presented **H 208** and said this bill corrects an oversight in Idaho's current property tax circuit breaker law. Under current Idaho Code § 63-701 (1)(d), those who had employment covered by Social Security, federal railroad retirement and federal civil service disability programs, and who are recognized as disabled by those programs, are entitled to a circuit breaker reduction in their property taxes. Some workers, primarily in public safety, including police officers, Sheriff's deputies, firefighters, EMTs and paramedics, are not covered by these programs. If they become disabled, they cannot get recognition of their disability by any of these programs including Social Security and are not eligible for circuit breaker.

This legislation corrects this oversight. Public employee retirement systems and disability plans may be of any state or local unit government in the U.S.

Senator Burgoyne said that it was his understanding that when Social Security started in the 1930s most state and local public employees were not covered. Over the years, more of these workers came within the coverage of the Social Security system. Many people assume all public employees are Social Security covered. He said in his research he has found that employees of the public hospital in Weiser as well as some local public safety employees had been left out of the Social Security system. The issue this bill presents is whether it is fair to leave those public safety and other public employees who are not covered by Social Security outside of circuit breaker protection when they become disabled.

Senator Burgoyne reported that circuit breaker does not impact local budgets because it is paid for from the State General Fund. He said there are reasons why this bill would not add many to the circuit breaker roles. They are:

- A person can only get circuit breaker once. People who are blind or over the age of 65 already qualify.
- Those with a disability are not eligible for circuit breaker if they have income of over \$28,000 or \$30,000 per year exclusive of their medical expenses. Most who have a working spouse and those who have good insurance based disability plans will not qualify.

Senator Burgoyne relayed that after extensive work, the Idaho State Tax Commission concluded that an estimate of 100 new circuit breaker participants, at an estimated cost of \$600 per year each, for an estimated total fiscal impact to the General Fund of \$60,000 per year, was a reasonable estimate of this bill's cost. Determining a precise cost proved impossible. He said the cost of overcoming an oversight and making circuit breaker more fair appears to be low.

Senator Rice asked if other jurisdictions might use a different disability standard other than Social Security. **Senator Burgoyne** said it was possible given the many jurisdictions across the country within the States.

MOTION:

Senator Bayer moved to send **H 208** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

H 202

Joe Stear, Idaho State Fire Commissioners Association, presented **H 202** and said this legislation gives fire districts the ability to dispose of surplus property without using a certified appraiser. There are no certified appraisers for fire equipment in the State of Idaho, and it is very costly to receive appraisals from out of state appraisers. This legislation ensures that fire districts can receive fair value for surplus equipment. **Mr. Stear** reported that there would be no impact to the General Fund.

Senator McKenzie asked what the standard was in appraising the value of fire equipment. **Mr. Stear** said that knowledge of the value of the equipment as well as knowledge of the condition of equipment was the standard.

Senator Burgoyne asked about how the language in the bill read. **Mr. Stear** said he didn't have a good answer, but deferred to Senator Vick for clarification. **Senator Vick** reiterated that the new paragraph 2 talks about personal property, and the new paragraph 3 talks about real property.

Senator Rice commented on the repetitive use of the word "such" but that the bigger concern was the "knowledge" of personal property could be too broad in its meaning. "Knowledge of value" versus "knowledge" should be clarified. **Mr. Stear** commented that it would be hard to define who that person would be.

Chairman Siddoway asked if knowledge is required to assess the value of the property, and does that imply you have to have knowledge of value. **Senator Rice** replied that it vaguely did, and the bill would read better if it said, "who have knowledge regarding the value of the personal property."

Senator McKenzie asked about the individuals who were going to be chosen to provide value to the fire equipment and what was meant by "independent individuals". Are they independent from the board? **Mr. Stear** said those individuals would be independent from the fire district all together.

MOTION:

Senator Stennett moved to send **H 202** to the 14th Order for amendment. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

H 220

Blake Youde, Idaho State Board of Education, presented **H 220** relating to the state income tax credit for charitable contributions to certain education institutions, museum libraries and nonprofit organizations. **Mr. Youde** reported that in 2010, H 630 was passed (effective January 1, 2011), making three changes to the already existing tax credit.

- The limit of the tax credit was temporarily increased. The credit is equal to 50 percent of the aggregate contribution to an eligible entity made by a taxpayer in a year. For individuals, the limit of the credit is \$500 (\$1,000 filing jointly) or 50 percent of the taxpayer's total income tax liability, whichever is less. For corporations, the limit is \$5,000 or 10 percent of the total income or franchise tax liability, whichever is less.

- The legislation temporarily included five state commissions or councils or their foundations as eligible entities to which a charitable contribution could be made with the donor being eligible for the tax credit in return. The Council for the Deaf and Hard of Hearing (added 2010), the Developmental Disabilities Council (added 2010), the Commission for the Blind and Visually Impaired (added 2010), the Commission on Hispanic Affairs (added 2010), and the State Independent Living Council (added 2010)
- Third, January 1, 2016, was established as the sunset for these changes.

The reduction in state income tax revenues due to these changes has been \$2.8 million since fiscal year 2012, the first year of impact on state income tax receipts, and it is thought this credit has provided an important benefit to educational entities without unduly eroding the tax base.

H 220 does four things:

- The sunset is deleted to preserve the credit at its current level. If no action is taken, as of January 1, 2016, the credit will continue, but the limits will decrease to \$100 or 20 percent of an individual taxpayer's total income tax liability, whichever is less, and \$1,000 or 10 percent of a corporate taxpayer's total income or franchise tax liability, whichever is less.
- By deleting the sunset, it maintains the five state commissions and councils added in 2010 as eligible entities.
- It clarifies the relationship between independent foundations and the elementary and secondary schools they support with contributions eligible for the tax credit and includes a January 1, 2020, sunset regarding these provisions to trigger a review.
- There is an additional technical correction to reflect that the State Board of Education does not accredit higher education institutions, rather the Board accepts higher education institution accreditation done by approved accrediting agencies.

Mr. Youde reported that the State Board of Education has endorsed the proposal to remove the sunset and maintain the credit at its current level.

Chairman Siddoway referenced language in the bill, "institutions's sole designated supporting organization" and asked if there could be competing organizations. **Mr. Youde** said the independent foundation could designate more than one school or more than one school district. That most likely could happen for a private school. A foundation must be supporting for different purposes.

TESTIMONY:

Testifying in favor of **H 220** were:

Ron Pisaneschi, General Manager for Idaho Public Television, said because of the voluntary contributions they receive, **H 220** is valuable. Their donors give generously because of the availability of the educational tax credit set forth in **H 220**.

Phil Homer, Idaho Association of School Administrators, said **H 220** is an important funding mechanism for those education foundations in the school districts.

Dax Chizum, Administrator Idaho Historical Society Developer, said income tax credits are a valuable tool to their agency that encourages donor support.

Bob Geddes, referenced a handout and said the quick reference outlined those entities who qualified to receive donations all of which are worthy of support. That support helps to generate revenue for important causes to continue their operations (see attachment 1).

MOTION: **Senator Johnson** moved to send **H 220** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Chairman Siddoway passed the gavel to Vice Chairman Johnson.

S 1147 **Chairman Siddoway** presented **S 1147** and said current code provides for the purchase of fire equipment with the proceeds from a bond issue. The added verbiage to this section of code allows for local agencies to procure police equipment through a bond election and issuance as well. He reported that the change in code will have no fiscal impact to the state and will only impact local agencies of government if electors approve a local bond election.

MOTION: **Senator Rice** moved to send **S 1147** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion.

Senator Vick asked if they wanted to use the money to buy police cars. **Senator Siddoway** replied yes and that it may also include buildings and equipment as well. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Johnson returned the gavel to Chairman Siddoway.

H 109 **Bob Aldridge**, Chartered Attorney at Law, presented the **H 109** amendments. He reported that the amended language is on page 2 and gave a quick history of how the language was drafted.

This bill is about income tax and is specifically limited to capital gain treatment of sales of real property under Idaho tax law. Idaho Code § 63-3022H deals with whether a sale qualifies for capital gain treatment in determining Idaho taxable income. If the income is capital gain income, then 60 percent of the gain is deducted to determine Idaho taxable income. The main property that qualifies for capital gain treatment is real property held at least 12 months. The reason for the deductibility of capital gains is to encourage long-term investments in real property, therefore the 12 month holding period.

Mike Chakarun, Idaho State Tax Commission (ISTC), addressed the fiscal note and estimated it would cost approximately \$50,000 for the ISTC covering 16 cases currently in protest. He also answered a question regarding January 1, 2010, which was the effective date. He said this will clear out the cases under protest.

MOTION: **Senator Stennett** moved to send **H 109** to the 14th Order for amendment. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

MINUTES APPROVAL: **Senator Johnson** moved to approve the Minutes of March 5, 2015. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**.

ADJOURNMENT: There being no further business, **Chairman Siddoway** adjourned the meeting at 4:00 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

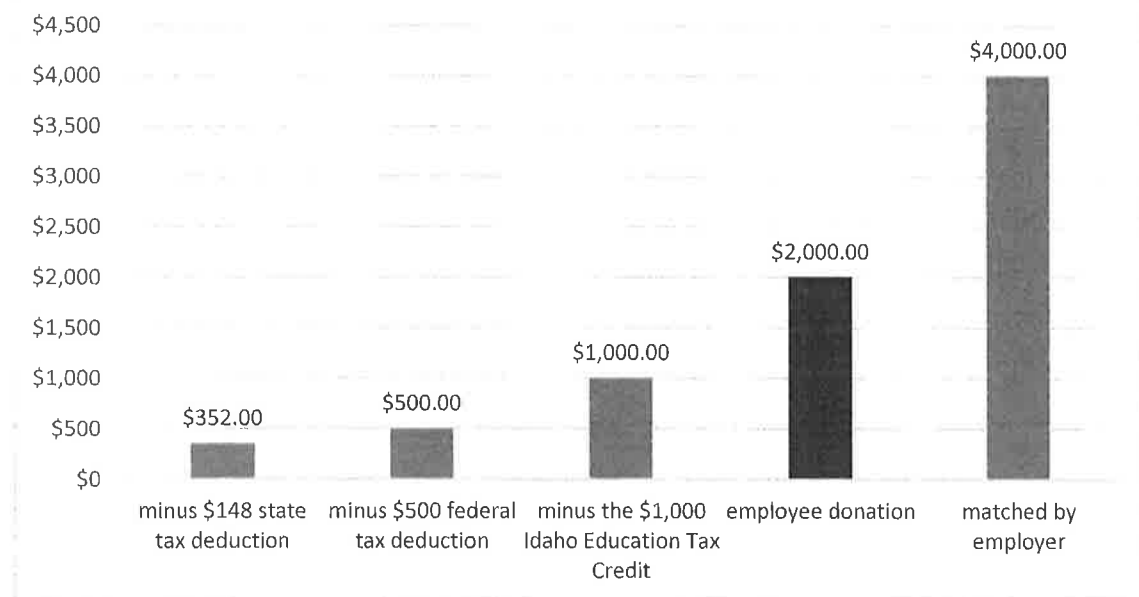
Testimony of Trent Clark, Public Affairs Director, Monsanto Company
On House Bill 220, Removing the Sunset from the Idaho Education Tax Credit
Before the Idaho Senate Local Government and Taxation Committee, March 17, 2015

Chairman Siddoway, Members of the Committee. House Bill 220 is an important element of our state tax code that helps employers like Monsanto compete in the marketplace for highly skilled talent. Markets are where both buyers and sellers shop to find the best value, and this principle proves true in the market for good jobs. Employers compete to find the most talented employees, and those employees seek jobs that have the mix of compensation and lifestyle they desire. Among the lifestyle elements that highly-skilled employees frequently seek is excellence in educational opportunities for their children.¹

But what makes a school “excellent?” Defining educational excellence is an ongoing and challenging task. Is it the range of extracurricular activities, a winning basketball team, college entrance exam scores or the availability of college-credit-earning classes? For employers, there is no definition better than the one defined by each individual employee. A winning strategy is to empower employees to become involved in their kids’ education, and to help them propose, implement and even fund the elements of an excellent education important to that employee.

As shown in the example below, for an out-of-pocket cost as little as \$352, this tax credit allows our employees to direct as much as \$4,000 to local education. This is made possible by the Idaho Education Tax Credit, at the level established in 2010, coupled with employer matching. By continuing this credit, House Bill 220 makes educational excellence something our newly recruited employees will feel is within their reach. I respectfully ask for your support.

Turning \$352 into \$4,000 for Schools



Source: Based on 2014 tax rates on an itemizing couple filing jointly with an AGI of at least \$80,000.

¹ A Realtor.com’s recent survey of nearly 1,000 prospective home buyers showed that 91 percent said school boundaries were important in their search. <http://www.realtor.com/advice/the-right-school-district-how-much-do-schools-affect-real-estate-p>

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
3:00 P.M.
Room WW53
Thursday, March 19, 2015

SUBJECT	DESCRIPTION	PRESENTER
MINUTES	Approval of Minutes from March 10, 2015 Approval of Minutes from March 12, 2015	Senator Vick Senator Stennett
<u>HCR 17</u>	URBAN RENEWAL STUDY COMMITTEE - Stating findings of the Legislature and authorizing the Legislative Council to appoint a committee to undertake and complete a study of urban renewal plans and issues.	Representative Youngblood
<u>H 221</u>	TAX EXEMPTION - WILDLIFE COSTS - Amends existing law to provide that the costs of acquiring, feeding, caring for and maintaining wildlife or fish available for hunting or fishing are eligible for the production exemption when the hunting or fishing activity is taxable.	Senator Nuxoll, John Watts, Joseph Peterson, Rick Smith
<u>H 236</u>	TAX INFORMATION - Adds to existing law to provide for an agreement for exchange of information between the State Tax Commission and the departments of correction and Health and Welfare in relation to the food tax credit.	Representative Moyle
<u>H 237</u>	USE TAX - Amends existing law to provide that the use tax shall not apply to a retailer supplying prepared food or beverages free of charge to its employee when that retailer sells prepared food or beverages in its normal course of business.	Pam Eaton

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Stennett
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Thursday, March 19, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie, Stennett and Burgoyne

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 3:00 p.m.

MINUTES APPROVAL: **Senator Vick** moved to approve the Minutes of March 10, 2015. **Senator McKenzie** seconded the motion. The motion carried by **voice vote**.

HCR 17 **Representative Youngblood** presented **HCR 17** and said this Concurrent Resolution requests that the Legislative Council appoint a committee to study urban renewal and urban renewal agencies. He reported that the cost of the interim committee is expected not to exceed a total of \$10,000. That amount would be apportioned between the Legislative Account and the General Fund.

TESTIMONY: **Senator Winder** said that the city of Boise today reflects urban renewal. He shared his views on problems occurring in other parts of the State that need not occur in the Boise area. The community needs to do what is beneficial for its growth. **Senator Winder** said Idaho needs to take a look at all the issues and believes the interim committee is a good way to do that.

Senator Burgoyne asked about the appointment of non-legislative members to the committee. How does that work, what kind of people, and how many?

Representative Youngblood said it would be a broad and diverse group of people who support and also find challenges with urban renewal. The committee would be comprised of non-voting members.

Senator Stennett asked if urban renewal committee (URC) members would need specific expertise for the non-voting members, and how long would the term be.

Representative Youngblood said he is not sure how the non-legislative committee members would be addressed, but he hopes to attract people from around the State to serve on the urban renewal committee. There would not be compensation or reimbursement for travel expenses. There would also be various meetings throughout the State to hear input and then try to draw some conclusions as to what the best path might be.

Chairman Siddoway expressed a concern over the make up of the committee and non-legislative participants. **Representative Youngblood** emphasized that those non-legislative participants would have no vote.

Senator Burgoyne asked if it was permissible to have non-legislative members on the committee, and if there is any provision for a minority party to be part of the committee. **Representative Youngblood** said to his knowledge there were no restrictions. It would be up to the Legislative Council whether a member of the minority party would be a participant, but he hoped that they would be.

MOTION:

Senator McKenzie moved to send **HCR 17** to the floor with a **do pass** recommendation. **Senator Rice** seconded the motion. The motion carried by **voice vote**.

H 221

Senator Nuxoll explained **H 221** and said the purpose of this bill is to avoid taxing the end user twice by clarifying within the existing production exemption statutes a sales tax to be assessed only on a final product. Clarification to the statutes includes certain wildlife costs associated with an overall hunting and fishing activity when packaged and sold at retail as an all-inclusive product.

John Watts, Veritas Advisors, said the goal of this bill is to clarify in current production exemption language that intermediate purchases of inputs (birds, feed, and ammunition) used in a final retail output product (birds and shooting the bird with shells) are exempted from being taxed twice with a sales tax. This is consistent with Idaho tax policy, which currently holds that the end user retail fee on the output includes all products integral to the final activity such as hunting and hunting packages should be taxed once at the retail sale.

The Idaho Tax Commission (Commission) performed a sales tax audit of the Flying B Ranch (Ranch) hunting preserve for the period 2010-2014. The Commission determined the Ranch should pay a sales tax when it purchases game birds and ammunition at wholesale, and then the Ranch should charge a second sales tax to the end user hunter/customer for the same game birds and shells sold at retail as part of an all-inclusive price.

Birds are purchased wholesale exempt from sales tax from commercial farm operations and are raised and maintained in interim farm coops with netted enclosures. This maturation and growth period requires manual feeding and watering in constructed coops and pens, requiring the Ranch to pay the farm a sales tax during the wholesale purchase. Charging a second sales tax to the customer at the retail sale level is double taxation on the same product. The purchase of game birds and ammunition represents an input, an integral, intermediate part of the final product. Consistent with current production exemption policy, the hunting operation inputs should not be taxed twice nor should other intermediate bird raising supplies or steps including feed, netting, and ammunition.

The Commission audit is being finalized, and preliminary conversations between the Commission and Ranch accounting personnel indicate the assessment could cost the rural Idaho company \$68,000. The Ranch has never had to pay a sales tax twice prior to this audit.

Mr. Watts said that to require a new, second sales tax on heretofore untaxed items will cost the Ranch approximately \$15,000 to \$20,000 in taxes annually.

Senator McKenzie asked how the tax exemption would distinguish between shooting live animals versus targets. **Mr. Watts** said a key operative term in play is consumable. If it's consumed and used once in the process and becomes a component part, then it becomes taxable.

Joseph Peterson, Flying B Ranch Manager, said many shooting preserves in Idaho are small. The price they offer is inclusive with the exception of the birds. Because of their price structure, an auditor said the birds were subject to tax and they needed to start paying the tax. That part of the Idaho Code doesn't work well for the Ranch.

Chairman Siddoway asked him to clarify what he is currently paying in tax and also confirm that he hasn't yet done what the auditor is asking. **Mr. Peterson** explained what taxes he was paying and how the Ranch was currently in protest.

Rick Smith, Tax Attorney with Hawley Troxell and representing Flying B Ranch, said this legislation is intended to address hunting and fishing operations.

Senator Burgoyne asked whether this is an issue to be addressed in the Legislature or the courts. **Mr. Smith** said it is better to get the statute clarified rather than have it litigated because the problem is reoccurring.

MOTION: **Senator Rice** moved to send **H 221** to the floor with a **do pass** recommendation. **Senator Stennett** seconded the motion. The motion carried by **voice vote**.

Chairman Siddoway stated he had a conflict of interest pursuant to Senate Rule 39(H) and will not vote.

H 236 **William VonTagen**, Deputy Attorney General, presented **H 236** and said it would create two new code sections, Idaho Code §§ 63-3077G and 63-3077H. These proposed code sections authorize the State Tax Commission (Commission) to exchange certain specific information with the Department of Health and Welfare and the Department of Correction. The information authorized to be exchanged relates to eligibility for the food tax credit found in Idaho Code § 63-3024A, which deals with the eligibility for Idaho's food tax credit. The food tax credit is commonly referred to as the grocery tax credit. All Idaho residents qualify for this credit except for taxpayers who are: (1) not in the country legally, (2) incarcerated, or (3) receiving food stamp benefits through the Idaho Department of Health and Welfare. It is up to the Commission to discover individuals who are not eligible for the credit and to disqualify them. The Commission is able to do this with respect to individuals who are not in the United States legally, but currently is unable to disqualify individuals on food stamps or individuals who are incarcerated because information about those individuals is in the hands of either the Department of Health and Welfare or the Department of Correction. Those agencies are currently unable to provide the information to the Commission because of lack of authority.

This bill will allow those two agencies to provide information to the Commission concerning individuals who are not eligible for the grocery tax credit. An individual who is on food stamps for a portion of the year will not receive the grocery tax credit for that part of the year he or she was on food stamps. Likewise an individual who is incarcerated for a portion of the year will not receive the grocery tax credit for the portion of the year that he or she is incarcerated.

The Commission, Department of Health and Welfare, and Department of Correction all deal with confidential personal information and have restrictions in place prohibiting the disclosure of information to the public or to other state agencies. The State has a grocery tax credit and the eligibility requirements for it are already in law. This bill allows the Commission to audit and determine individuals who are ineligible for the credit in an efficient and non-intrusive manner.

Senator Rice asked why the bill says the information is to be provided by the Department of Correction. **Mr. VonTagen** said that one of the reasons is to be able to go directly to the Department of Correction. **Senator Johnson** asked when the bill would take effect and if there is a retroactive clause. **Mr. VonTagen** said it would take effect on July 1, 2015, and it would not be retroactive.

TESTIMONY: **Darcy James**, representing the Idaho Interfaith Roundtable Against Hunger, testified against **H 236** saying they question how much money will actually be saved. She said the fiscal note doesn't allow for any administrative cost, and she also questions the assumption that the food stamp recipients would claim the \$100 that they are not entitled to. **Ms. James** asked that **H 236** be held in Committee.

MOTION: **Senator Burgoyne** moved to hold **H 236** in Committee. **Senator Stennett** seconded the motion. The motion failed by **voice vote**.

MOTION: **Senator Rice** moved to send **H 236** to the floor with a **do pass** recommendation. **Senator Guthrie** seconded the motion. The motion carried by **voice vote**. **Senator Burgoyne** and **Senator Stennett** request to be recorded as voting nay.

H 237

Pam Eaton, President Idaho Retailers Association, presented **H 237** and reported that this legislation exempts from the use tax food or beverages given to employees free of charge by businesses that prepare food in their normal course of business. This would include restaurants and full service deli's in grocery stores. Generally employees are given discounted meals and the sales tax is paid on that discounted meal. When an order is incorrect or there is food left over, employees are allowed to eat that.

Some employers allow their employees to eat free during their shifts as a perk to the job. Unless it's an actual meal ordered directly from the menu, who's eating what and when, and what the actual cost is of what they are eating, is extremely tough to track and calculate. This puts employers in a tough situation since the Commission is interpreting that use tax is owed on anything the employee eats for free. Most restaurants and grocery store delis donate their leftover food at the end of the day, and it was exempted from the use tax in 2014. Beverage and food tastings were exempted from the use tax in 2012 and 2013. All of these issues on use taxes owed came from audits from the Commission, although it was never clearly stated in law.

MOTION:

Senator Johnson moved to send **H 237** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion. The motion carried by **voice vote**.

**MINUTES
APPROVAL:**

Senator Stennett moved to approve the Minutes of March 12, 2015. **Senator Johnson** seconded the motion. The motion carried by **voice vote**.

ADJOURNED:

There being no further business, **Chairman Siddoway** adjourned the meeting at 4:02 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AMENDED AGENDA #1
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
2:00 P.M.
Room WW53
Tuesday, March 24, 2015

SUBJECT	DESCRIPTION	PRESENTER
<u>H 257</u>	PROPERTY TAXATION - Amends existing law to provide that park model vehicles shall be assessed per the National Automobile Dealers Association standard for recreational vehicles classified as park model homes for property tax purposes.	Jack Lyman
<u>H 269</u>	OIL AND GAS TAX - Amends existing law to revise how the tax on the production of oil and gas is administered and collected and to define "gross income."	Senator Lee
PAGE GRADUATION:	Nolan Cole, Graduating Page	Senator Siddoway

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway

Vice Chairman Johnson

Sen McKenzie

Sen Rice

Sen Vick

Sen Bayer

Sen Guthrie

Sen Stennett

Sen Burgoyne

COMMITTEE SECRETARY

Amanda McLennan

Room: WW50

Phone: 332-1315

email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 24, 2015

TIME: 2:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Vick, Bayer, Guthrie, Stennett and Burgoyne

ABSENT/ EXCUSED: Senator Rice

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 2:10 p.m.

H 257 **Jack Lyman**, Idaho Housing Alliance, presented **H 257** and said this legislation specifies that the assessment on park model vehicles will be based on the National Automobile Dealers Association (NADA) standard for recreational vehicles classified as park model homes. **Mr. Lyman** showed Power-Point slides that explained what park model homes look like, how they are set up, and the total amount of square footage. He reported that the problem is that the assessors are overvaluing these homes and taking a large amount of time to assess them. He said **H 257** provides for assessments that are fast, fair, and accurate.

Senator Burgoyne commented on the verbiage in the bill saying they were park model vehicles, which suggests you can drive them. He asked if they had wheels and were able to be towed. **Mr. Lyman** said no, but they do have a running gear. It's towed and then typically the gear will be removed. He emphasized that in the Manufactured Housing Residency Act a park model is defined as a vehicular type unit that has a floor area of under 400 square feet or less and meets the National standards.

Senator Vick said while the NADA value would be appropriate for newer units the value for older units might not be. He asked Mr. Lyman to address how older units would be valued. **Mr. Lyman** said he is not aware of deficiencies in NADA for older park model homes, he had not tested one, and didn't know how many older units were currently in the marketplace.

Senator Vick asked about the retroactive date and said the mobile home values had been set for this year, and the amount of time and resources it would take to double back and do the work and research over again is not available. **Mr. Lyman** said that this is not a mobile home, which is very different from a park model home, and that there were so few of these type of homes that it wouldn't take long to assess.

Senator Stennett asked how an assessor would evaluate these any differently from a mobile home. **Mr. Lyman** said park model homes are separate and distinct from mobile homes and that they didn't have an NADA book for mobile homes. He emphasized the assessment process for park model homes is trying to be simplified in an accurate manner.

TESTIMONY: **Dan Blocksom**, Idaho Association of Counties, said they had not officially taken a stance but had four concerns from county assessors:

- (1) Retroactivity would cause reassessments. This bill has a retroactive date of January 1, 2015. Assessors send out assessment notices around the end of May. The county board of equalization hearings start at the end of June. Some assessors have already gotten their assessment values for those homes set now. Going backwards not only creates additional work, but also leads to potential mistakes.
- (2) Incompleteness in the NADA guide would create confusion as to how to evaluate excluded models. NADA doesn't provide valuations for some mobile homes that the assessors would have to assess. It's not clear what assessors are supposed to do if the model isn't listed.
- (3) Using NADA will not reflect market values and will result in a tax burden shift. NADA values are quite close for park model homes that are new. However, the older the models, the more the NADA value drops below what the market value is for the home. If this legislation goes through, these park models will be assessed far below what the market is saying they are worth. They will pay fewer taxes, and thus the remainder will be made on the backs of the other property owners. This will, in effect, as a tax exemption.
- (4) No guidance would be available for permanent additions.

Senator Burgoyne asked what the current method of valuation is and under what provision of the code does it fall. **Mr. Blocksom** said he did not know the provision, but as far as market evaluations the comparables are looked at in the area.

Senator Guthrie asked if they assess the land and the park model home separately. **Mr. Blocksom** said that the land is evaluated and then the house separately and in some counties he thought they were broken out on the assessment notice.

Vice Chairman Johnson asked whether it made a difference in the assessed value if the wheels are left on or not. **Mr. Blocksom** said according to Idaho Code § 63-304 once the home is permanently affixed to the land it becomes real property, which at that time it would be assessed as real property. If it's on wheels it would be taxed as personal property.

Mr. Lyman gave closing remarks and said park model homes are not manufactured homes, and according to Idaho Code they could not be permanently affixed to the land to gain real property status.

Senator Guthrie asked whether a park model home loses its status if there is a square foot addition and if a park model home could be put on a foundation. **Mr. Lyman** said he didn't know if it was possible to add square footage. He said it was possible for a park model home to be placed on a foundation, but it could not be declared as real property under Idaho law.

MOTION: **Senator Burgoyne** moved to hold **H 257** in Committee. **Senator Vick** seconded the motion.

SUBSTITUTE MOTION: **Senator McKenzie** moved to send **H 257** to the floor with a **do pass** recommendation. **Senator Bayer** seconded the motion.

SUBSTITUTE MOTION: **Senator Guthrie** moved to send **H 257** to the 14th Order for amendment. **Vice Chairman Johnson** seconded the motion. The motion carried by **voice vote**.

H 269 **Senator Lee** presented **H 269** and said this legislation clarifies existing code and aligns tax collection policies with industry and market practices to allow for uniform tax assessment of oil and gas produced in Idaho.

Chairman Siddoway asked how arms-length transactions would be reported. **Senator Lee** said this bill provides legislative language drafted by the Department of Lands and the Tax Commission for enforcement. **Senator Lee** said she is not aware of any current arms-length issues.

Chairman Siddoway asked if it would be the Department of Lands duty to watch this provision, and who within the department is in charge to do the monitoring. **Senator Lee** said the Department of Lands along with the Tax Commission would be the monitor of accurate reporting.

Senator Guthrie asked whether gross income would be taxed at the wellhead, and if so, is there an additional tax or processing cost. **Senator Lee** said whether it is sold at the refinery or at the wellhead, essentially the price is the same because all of those costs are born by the refinery. The clarifying language in **H 269** for someone who didn't want to sell it at the wellhead and wanted to carry those costs there would still be a two and a half percent of whatever it was sold at.

MOTION: **Senator Bayer** moved to send **H 269** to the floor with a **do pass** recommendation. **Senator Vick** seconded the motion. The motion carried by **voice vote**.

PAGE GRADUATION: **Chairman Siddoway** called Page Nolan Cole to the podium and presented him with an Idaho State watch, Capitol coffee cup, a letter of recommendation, and a letter of appreciation signed by all the Committee members. **Mr. Cole** spoke about his experiences and said he came to see if he could peak his interest in politics. What he learned was that all the Senators were such great individual people. He said how much he appreciates them. He reported that his plan is to serve a two year LDS mission and then enroll at Idaho State University where he received a presidential scholarship. He planned on either majoring in political science or bio chemistry, but the overwhelming advise he has received here is that he should pursue the field he loves and put politics off to be entered later.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 2:53 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary

AGENDA
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE
2:00 P.M.
Room WW53
Tuesday, March 31, 2015

SUBJECT	DESCRIPTION	PRESENTER
<u>H 286</u>	PROPERTY EXEMPT FROM TAXATION - Amends existing law to revise the property tax exemption for certain business property, to revise definitions, to revise capital investment requirements in counties within a certain population criteria and to revise the exemption criteria.	Director Jeff Sayer, Department of Commerce
MINUTES	Approval of Minutes from March 17, 2015	Senator Bayer
	Approval of Minutes from March 19, 2015	Senator McKenzie
	Approval of Minutes from March 24, 2015	Senator Burgoyne

If you have written testimony, please provide a copy of it along with the name of the person or organization responsible to the committee secretary to ensure accuracy of records.

COMMITTEE MEMBERS

Chairman Siddoway	Sen Bayer
Vice Chairman Johnson	Sen Guthrie
Sen McKenzie	Sen Stennett
Sen Rice	Sen Burgoyne
Sen Vick	

COMMITTEE SECRETARY

Amanda McLennan
Room: WW50
Phone: 332-1315
email: sloc@senate.idaho.gov

MINUTES
SENATE LOCAL GOVERNMENT & TAXATION COMMITTEE

DATE: Tuesday, March 31, 2015

TIME: 3:00 P.M.

PLACE: Room WW53

MEMBERS PRESENT: Chairman Siddoway, Vice Chairman Johnson, Senators McKenzie, Rice, Vick, Bayer, Guthrie, Stennett and Burgoyne

ABSENT/ EXCUSED: None

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Siddoway** called the meeting of the Local Government and Taxation Committee (Committee) to order at 2:10 p.m.

H 286 **Jeff Sayer**, Director Department of Commerce, was supposed to present **H 286** but given the amount of people wanting to testify and time limitations he said that he would prefer testimony to proceed before his remarks.

TESTIMONY: Several people signed up to testify on **H 286** and speaking in favor were:

Bill Brown, Commissioner Adams County, said this legislation is meant to help the smaller counties like his. He said he believed the \$3 million threshold was too much money to attract small new business to his rural county.

Dan Blocksom, Idaho Association of Counties, addressed the tax shift issue. He suggested that this is not nearly as big of a tax shift as allowed in other areas.

Steve Hadley, Bannock County Commissioner, said the county commissioners are already publicly criticized and when mistakes are made they're made known.

Brian Blad, Pocatello Mayor, commented that Bannock County has used this tool to greatly help it's citizens. It has helped bring a company to Pocatello that will provide 1,000 jobs. He said he trusts the county commissioners to make the right decisions for the community and to treat all businesses fairly.

Craig Cooper, Council President of the City of Pocatello, said he liked the shorter five year increment period of time in this legislation.

Kevin England, Chubbuck, stated it is a long needed tool in order to compete with some of the surrounding areas. He believed that giving the county commissioners more discretion to make decisions on what should be done in their communities was beneficial.

Matt Hunter, President of Chubbuck Chamber of Commerce, commented that this legislation is exciting to help smaller businesses.

Noris Crouger, Entrepreneurship Northwest, reported that 58 percent of new jobs come from startups, 40 percent of new jobs come from growing firms, and 2 percent come from businesses moving in. Idaho needs more of its existing firms to grow and **H 286** will help. He said the downside would be minimal and this is a positive step in the right direction.

John Watts, partner with Veritas Advisors, said this is an important economic development tool for the local communities. It allows local elected authorities to have the authority over taxation destiny and to decide what is best for their city and their county.

TESTIMONY: Speaking in opposition of **H 286**:

Representative Tom Loertscher, District 32, said he voted for this bill in the House, but in retrospect he wished he could take it back. He gave examples of the effect this legislation would have on the overall tax situation in counties. He said whenever there is action such as this legislation where the sole discretion is given to the commissioners and there's no one to evaluate their action in any way, the taxes are shifted to other businesses and homes. He said he didn't believe it was good tax policy.

Wayne Hoffman, President of Idaho Freedom Foundation, commented that when a business opens up, their tax burden should be equal with other businesses' tax burdens and that there should not be special treatment given to certain businesses by the county commissioner.

Ryan Armbruster, Attorney with Elam & Burke, stated his concern about the reasons they were not provided the same notice that the other taxing unities were. He said he would encourage a uniform system so that anyone who is impacted by the application would be provided appropriate notice.

Jeff Sayer, Director, Department of Commerce, closed by saying the heart of this issue is incentives which work and are needed. This legislation is about keeping the State competitive and attracting businesses. This not only helps small businesses, but it allows local elected officials to make the right decisions for their communities.

MOTION: **Senator Guthrie** moved to hold **H 286** in Committee. **Senator Vick** seconded the motion.

ROLL CALL VOTE: **Chairman Siddoway** requested a roll call vote. **Senators Siddoway, Rice, Vick, Bayer** and **Guthrie** voted aye. **Senators Johnson, McKenzie, Stennett** and **Burgoyne** voted nay. The motion carried.

ADJOURNED: There being no further business, **Chairman Siddoway** adjourned the meeting at 3:16 p.m.

Senator Siddoway
Chair

Amanda McLennan
Secretary